

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1786 OF 2016
IN
WRIT PETITION NO. 2570 OF 1994

Sundarbai Dattatraya Kshirsagar (since
deceased through legal heirs)

Nagnath D. Kshirsagar.

... Applicant.

V/s.

Ganpat Baburao Rajput (since deceased
through legal heirs) and others.

... Respondents.

Sarang S. Aradhye for the applicant.

Ajay A. Joshi for the respondents.

CORAM : D.H.WAGHELA, C.J.

DATE : 18th July 2016.

P.C. :

The application is made for recalling the order dated 23rd April 2015 by which the petition was dismissed for non-prosecution in absence of advocate for the petitioners on that date. Learned counsel for the petitioners could not attend the hearing on account of being held up in other Court and the application could not be filed within time on account of communication gap between learned advocate and the party which was justified on the basis that original

learned counsel for the applicant in the trial Court had passed away in 2015 and the parties or advocate could not directly communicate. In absence of any serious dispute about the facts narrated in the application, the delay in making the application is condoned. The order dated 23rd April 2015 in the main petition being Writ Petition No.2570/1994 is recalled and the petition is restored to file on the submission and condition that the main petition may peremptorily be listed on 25th July 2016 for hearing and final disposal. Learned counsel appearing for either side fairly submitted that it was in the interest of parties to settle the matter fully and finally on agreed terms and they will take all necessary instructions as far as may be to settle the dispute on agreed terms.

List the main petition on 25th July 2016.

CHIEF JUSTICE