

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 13367 OF 2016

Mr.Vishnu Kisan Mane and Ors ..Petitioners.

Vs

Mr. Bapu Dhondi Mane and Ors .. Respondents

Mr. Pramod G. Kathane a/w Mr. Manoj G. Sawardekar, Advocate
for Petitioners.

CORAM : R.G.KETKAR,J.
DATE : 08/12/2016

PC:

1. Heard Mr. Pramod Kathane, learned counsel for the petitioners at length.
2. By this Petition under Article 227 of the Constitution of India, the petitioners, hereinafter referred to as 'plaintiffs' have challenged the Judgment and order dated 8.6.2016 passed by the learned District Judge-II, Islampur in Misc. Application No. 72 of 2015. By that order, the learned District Judge rejected the application made by the plaintiffs for condoning delay of 1 year 8 months and 15 days in filing the substantive appeal against the Judgment and decree dated 20.2.2014 passed by the learned trial Judge dismissing Regular Civil Suit No.71 of 2005.
3. Mr. Kathane submitted that after the suit was dismissed on 20.2.2014, the plaintiffs filed Appeal on 5.11.2015. As there was delay in filing the appeal, they took out application for condonation of delay on 5.11.2015. By the impugned order, the

learned District Judge has rejected the application.

4. After arguing the petition for quite some time and upon taking instructions from the plaintiffs, Mr. Kathane seeks permission to withdraw the petition with liberty to file fresh application giving all the requisite details for condoning the delay. He submitted that as the application for condonation of delay was filed on 5.11.2015, the plaintiffs may be permitted to explain delay in filing Appeal from 20.2.2014 till 4.11.2015.

5. In view thereof, on the motion made by Mr. Kathane, petition is allowed to be withdrawn with liberty as prayed for. Plaintiffs are at liberty to file fresh application giving all requisite details for explaining the delay between 20.2.2014 and 4.11.2015. All contentions of the respondents including maintainability of such application, are expressly kept open. Order accordingly.

(R.G.KETKAR, J.)