

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3059 OF 2015

IN

WRIT PETITION NO.2451 OF 1998

Vithal Kashinath Bhor and another

.. Applicants

Versus

Ramchandra Gopal Tembekar

(Since deceased through his legal heirs)

Nitin Ramchandra Tembekar and others

.. Respondents

Mr. A. P. Mhatre, for the Applicants/Petitioners.

Ms. Neuty N. Thakkar for the Respondent Nos.1(a) to 1(c) & 2.

Mr. S. D. Rayrikar, AGP for the Respondent No.3.

CORAM : R.M. SAVANT, J.

DATE : 11th MARCH 2016

PC.

1. The above Civil Application has been filed for restoration of the above Petition which has stood dismissed for non-prosecution on account of the non-appearance of the Advocate on 05.01.2015. The Learned Advocate who had filed Vakalatnama for the Petitioners Mr. P. K. Dhakephalkar was designated as a Senior Advocate and therefore he missed the matter and could not appear when the matter was listed on 05.01.2015. The said reason finds a place in paragraphs 6 and 7 of the

Civil Application. The above Petition is pending hearing and final disposal. In my view, therefore, it would be just and proper to afford an opportunity to the Petitioners to prosecute the above Petition on merits rather than being thrown out on the ground of a technicality. The Civil Application is accordingly allowed. Resultantly, the Writ Petition is restored to file. The Petitioners to pay costs of Rs.2000/- to the Respondent Nos.1(a), 1(c) and 2 within four weeks from date. List the Petition for final hearing in the week commencing 11.04.2016 to be shown on the appropriate place on the final hearing board under the category of senior citizen. The Civil Application is accordingly disposed of.

[R.M. SAVANT, J]