

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 308 OF 2016

Shri. Sachin Ekanath Tatkari	...Petitioner
<i>Versus</i>	
Shri. Ekanath Vitthal Tatkari	
And Anr.	...Respondents

....
Mr.Ruturaj Pawar i/b. Ajit M. Savagave, Advocate for Petitioner.
Mr.S.V. Pitre, Advocate for Respondent No.1.
Respondent No.2 is present in person.

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CORAM : R. G. KETKAR, J.

DATE : 21st DECEMBER, 2016

P.C.

1. Heard Mr.Ruturaj Pawar, learned Counsel for the petitioner and Mr.S.V. Pitre, learned Counsel for respondent No.1. Respondent No.2 is present in person.

2. Mr. Pitre states that respondent No.1 is the father of the petitioner and respondent No.2. Mr. Pitre submitted that respondent No.2 has not challenged the judgment and decree dated 12.10.2011 passed by the learned trial Judge in R.C.S. No.47/2009. Mr. Pitre has tendered photocopy of Aadhaar card of respondent No.1, which is taken on record and marked 'X' for

identification. Respondent No.1 identifies respondent No.2.

3. In view thereof, Rule. Respondents waives service. At the request and by consent of parties, Rule is made returnable forthwith and the Petition is taken up for final hearing.

4. Mr. Pitre submitted that the petitioner and respondent No.2 have filed purshis at Exhibit-35 to the effect that they are not interested in proceeding with R.C.S. No.47/2009. The learned trial Judge decreed the suit on 12.10.2011. The petitioner filed appeal on 1.1.2015 challenging the decree passed by the trial Court. As there was delay of 1175 days in filing the appeal, he took out Misc. Application No.2/2015. By the impugned order dated 20.11.2015, the learned District Judge has rejected the application for amending Misc. Civil Application.

5. Upon taking instructions from respondent No.1, Mr.Pitre submits that the impugned order may be set aside by consent and the application Exhibit-35 filed in Misc. Civil Application No.2/2015 for amendment may be allowed.

6. In view thereof, by consent of the petitioner and respondent No.1, impugned order dated 20.11.2015 is set aside

and the application Exhibit-35 for amendment in application for condonation of delay is allowed. Rule is made absolute with no order as to costs. Amendment shall be carried out on or before 13.1.2017 and amended slip shall be made over to other side. Parties shall appear before the District Court on 16.1.2017 and for that purpose no fresh notice be issued to them. Order accordingly.

(R. G. KETKAR, J.)

Deshmane (PS)