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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.49 OF 2016
IN
ARBITRATION PETITION (LODGING) NO.1653 OF 2015

Ashok M. Vernekar & Ors. ...Applicants

IN THE MATTER BETWEEN :

Ashok M. Vernekar & Ors. ...Petitioner

V/s.

M/s.Keshav Construction Co. & Anr. ...Respondents

Mr.Balasaheb Deshmukh for the Applicants / Petitioners.

Mr.Amit Shroff for the Respondent No.1.

CORAM : R.D. DHANUKA, J.
DATE : 9TH AUGUST, 2016.

P.C. :-

1. By this notice of motion the applicants seeks condonation of delay of 13 days in filing the notice of motion and seeks restoration of the arbitration petition, which was dismissed for non-compliance of the conditional order passed by the learned Prothonotary & Senior Master on 27th October, 2015.

2. The notice of motion is vehemently opposed by the learned counsel for the respondent no.1 on the ground that the learned arbitrator has awarded huge claim in favour of the

respondent no.1. The applicants are playing delaying tactics by first not removing the office objections within the time prescribed by the learned Prothonotary & Senior Master and thereafter not moving this notice of motion for early hearing. In my view, the grievance made by the learned counsel for the respondent no.1 against the applicants is justified.

3. Learned counsel for the applicants states that all other office objections will be removed within two weeks from today. The statement is accepted. However since the applicants have not sufficiently explained the delay and has not taken any steps to apply for early hearing of the notice of motion on the ground that there was no urgency in the matter at all, in my view, the interest of justice would be met with if the delay is condoned and the order of the learned Prothonotary & Senior Master dated 27th October, 2015 is set aside on the condition that the applicants should pay the costs of Rs.25,000/- to the respondent no.1 within one week from today. It is made clear that if the costs of Rs.25,000/- is not paid by the applicants to the respondent no.1 within one week from today, and if the other office objections are not removed by the applicants within two weeks from today, the arbitration petition to stand dismissed without further reference to the Court. The applicants shall produce a copy of the receipt of Rs.25,000/- towards payment of costs to the

learned Prothonotary & Senior Master within 10 days from today.

4. If all the office objections are removed, place the arbitration petition on board for admission on 1st September, 2016.

(R.D. DHANUKA, J.)