

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE P.NAVEEN RAO**

WRIT APPEAL No. 415 of 2016

Dt:22.06.2016

Between:

Deniveni Nanha Raam and another.

... Appellants

And

Commissioner, Survey, Settlement & Land Reforms
and others.

... Respondents

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PC: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

This writ appeal is directed against the order, dated 23.04.2014, passed in WPMP Nos.4644 and 4655 of 2012 in W.P.No.19146 of 1996, whereby the appellants' prayer for condoning 2177 days delay caused in filing restoration petition has been rejected.

We have heard learned counsel for the appellants. The only contention advanced by him is that the appellants were not aware about the pending proceedings since their relations with their deceased father were strained. When we asked learned counsel for the appellants to point out such pleadings, he expressed his inability. In other words, he raised such contention for the first time before us and that too across the Bar.

We have perused the impugned order and we find, the learned Judge has considered chronology of the dates and events in detail and also the judgments cited before him and dismissed the writ petition for the following reasons recorded in the concluding paragraphs:

“In the case on hand, the 1st petitioner and his second son are admittedly Advocates by profession. The standard of sufficiency of cause, circumstances preventing petitioners from acting timely and that there is no complacency of

casualness in pursuing the legal remedies available are examined. It is equally well settled that unexplained and casual approach disentitles a party the discretion of the Court. The averment that the default order dated 24.01.2006 is against dead person and is null and void by itself is no ground to condone the delay of 2177 days in filing the petition. On 04.05.2005, the 1st petitioner died. The failure to bring on record the legal representatives of the 1st petitioner had in law terminated the writ petition as abated. Once the proceeding is abated whether there is default order on 21.04.2006 or not is secondary. In effect, what stares of petitioner is the order passed by 1st and 2nd respondents. Therefore, by just referring to the default order as null and void, the petitioners cannot automatically get condonation of enormous delay of 2177 days in filing petition. The averments in the affidavit do not disclose any cause much less sufficient cause.

Further the reasons or cause required to be stated for condonation of delay is for absence on 24.01.2006 resulting in dismissal of writ petition for default and subsequent delay. The averments in the affidavit do not advert to this aspect of matter at all. Consequently, the ill-health or failure to contact Advocate etc. has no relevancy in the matter.

The decisions relied upon by the petitioners are on merits of the case and they are not considered as miscellaneous petitions are decided and disposed of.

I see no reason to condone the complacent and casual manner in which the cause is taken up by the petitioners and having failed to state sufficient reasons, they ought not to expect the Court to pass orders to do substantial justice.”

It is not in dispute that the second appellant is an Advocate. In view thereof, we find no reason to interfere with the observations made by learned Single Judge and the order dismissing the miscellaneous petitions. No case for condoning the delay is made out even before this Court.

The appeal is dismissed.

Consequently, miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

P.NAVEEN RAO,J

Dt:22.06.2016

kdl

