

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 797 OF 2017

Shaikh Farook Shaikh Mohammed ..PETITIONER

VERSUS

Shaikh Afzal Shaikh Mohammad ..RESPONDENT

....
Mr. S.M.A. Jahagirdar, Advocate for petitioner.
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**CORAM : M.S. SANKLECHA, J.
DATED : 02nd MAY, 2017**

ORDER :

1. This petition challenges the order dated 14th September, 2016 passed by the Civil Judge Junior Division, Bhokardan, Dist. Jalna. The impugned order rejects the petitioner's application for setting aside the order dated 22nd January, 2016 dismissing the suit against Defendant No.3 for want of prosecution.

2. The impugned order records the fact that the application for recall of the order dated 22nd January, 2016 was filed on 19th July, 2016. The reason for delay in moving the application to recall the order dated 22nd January, 2016 dismissing the suit against Defendant No.3 for want of

prosecution was that the plaintiff's father died on 22nd June, 2016. The impugned order rejects the application on the ground of delay and records that it has been filed to prolong the proceedings.

3. I find that application to set aside the order dated 22nd January, 2016 was filed on 19th July, 2016. The reason of delay for filing an application for setting aside the order was the death of father of the plaintiff on 22nd June, 2016. This reason is unrelated to the explanation for delay from 22nd January, 2016 when the order dismissing the suit against Defendant No.3 was passed and making of the application on 19th June, 2016.

4. In the above view as the petitioner had not given any reason for the delay to set aside the order dated 22nd January, 2016, no interference under Article 227 of the Constitution of India is called for.

5. Accordingly petition is dismissed. No order as to costs.

(M.S. SANKLECHA, J.)

SSD