

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

WRIT PETITION NO. 2428 OF 2017

Nagesh s/o. Somnath Kurle & Ors. .. Petitioners

Versus

Ramchandra s/o. Tukaram Hukire & Anr. .. Respondents

Mr.S.T. Veer, Advocate for the petitioners.

CORAM : S.B. SHUKRE, J.

DATED : 01.03.2017

P.C. :-

1. Learned Counsel for the petitioners submits that suit itself has been dismissed for failure of the petitioners to comply with the order regarding addition of third party by the plaintiff within 17 days from 04.11.2015. The time granted by order dated 04.11.2015, as submitted by the learned Counsel for the petitioners, was extended from time to time, but the petitioners did not ensure compliance with the said order.

2. Now the petitioners are seeking to challenge the legality and correctness of the order dated 04.11.2015 and that too after suit itself has been dismissed for their failure to comply with this very order. No reasons for delay are disclosed for challenging the order dated 04.11.2015. In this petition it is only alleged in

paragraph (8) that the petitioners were kept fully engaged in the trial Court by the respondents and therefore the petitioners could not challenge the order within reasonable period of time. Even if the respondents had kept the petitioners busy in the suit, although it does not appear to be so, the petitioners right from beginning were indulging in attitude of not prosecuting the suit promptly as seen from the first order passed on 04.11.2015 by the Trial Court to the effect that inspite of giving sufficient opportunity, the plaintiff failed to file her say. The respondents did not tie hands of the petitioners in filing the writ petition to challenge the order dated 04.11.2015. The ground so taken does not disclose any sufficient cause. It appears that the petitioners have now preferred this petition only after the suit was dismissed by the Trial Court for their failure to comply with the order dated 04.11.2015, as a desperate attempt to cover up their laziness.

3. The petition, therefore, deserves to be dismissed on account of laches and it is dismissed summarily with costs.

[S.B. SHUKRE, J.]