

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

911 LETTER PATENT APPEAL NO. 182 OF 2007

KASHIBAI MAROTI BHOPLÉ
VERSUS
GANGARAM AMBAJI BHOPLÉ & ORS

...
Advocate for Appellant : Mr. Sarvadnya Rohit S
Advocate for Respondents : Mr. G.K. Naik Thigle
...

**CORAM : S.C. DHARMADHIKARI &
MANGESH S. PATIL, JJ.
DATE : 15.06.2017.**

P.C. :-

. Having heard the appellant's advocate, we do not think that the learned Single Judge was in any error in dismissing the writ petition. The writ petition invoked the supervisory powers and jurisdiction of this Court under Article 226 of the Constitution of India to challenge an order passed by the learned Judge of the Appellate Court. An appeal was brought before that Court challenging an order of the trial court. That was admittedly time barred. An application for condonation of delay in filing that appeal was filed being Miscellaneous Civil Application 27/04. That application was dismissed for want of prosecution.

2. The petitioners sought restoration of that application but the restoration application was also barred by time. No grievance of the

nature now raised orally before us was ever raised or projected. The delay may be of 64 days. That there was delay, hence there has to be an explanation for such a delay. It is concurrently found that the appellant's conduct does not enable him to pass any discretionary or equitable order in his favour. He was grossly negligent. If that is the finding returned concurrently then we do not think that we should entertain such a litigant. Today, the learned Advocate for the appellant may say that he is illiterate or poor or old but the fact remains that when the Miscellaneous Civil Application for restoration was filed, delay of 64 days in filing thereof was also not sought to be condoned by making an application for condonation of delay. No written application was filed. It is in these circumstances that the restoration application has been rightly dismissed. There is no merit in this appeal, it is dismissed.

[MANGESH S. PATIL, J.]

[S.C. DHARMADHIKARI, J.]