

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

917 WRIT PETITION NO. 9792 OF 2016

NAVNATH ASHRAM NIKAM AND ANOTHER
VERSUS
ASHOK GANGARAM SHINDE AND OTHERS

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Advocate for Petitioners : K.N. Nagarkar, h/f. Kulkarni Smita S.
AGP for Respondents: S.R. Yadav Lonikar

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CORAM : P.R. BORA, J.
DATE : 29-03-2017.

P.C.:

1. Heard the learned counsel appearing for the petitioners.
2. By filing the present petition, the petitioners are challenging the order passed by the District Judge-1, Kopergaon in Miscellaneous Application No. 18 of 2014 dated 21.06.2016.
3. The father of the petitioner no.2 was a Trustee in the trust by name Shri Renukadevi Trust, Ukkadgaon. The petitioners filed an application under Section 41-E of the Maharashtra Public Trust Act against the existing Trustees alleging certain malpractices and misappropriation of funds of the trust. The said application came to be rejected by the learned Joint Charity Commissioner against which an appeal was preferred by deceased Ramesh Shinde i.e. the father of the present petitioner no.2. Since 598 days delay has occurred in filing the said appeal, separate application for seeking condonation of delay was filed which was registered as

Miscellaneous Application No. 18 of 2014. The said application has been rejected by the learned District Judge and the said order has been impugned in the present petition.

4. It is the contention of the petitioners that, they were not aware of the proceedings which were initiated by the deceased father of petitioner no.2 and the moment they came to know about it, they filed an appeal.

5. I have gone through the order passed by the learned District Judge. It appears that, along with deceased Ramesh Shinde, there was one more applicant and the said applicant has prosecuted the said proceedings further. In the circumstance, it has been observed by the learned District Court that the proceedings were ultimately decided on merits and it cannot be said that the proceedings have proceeded ex-parte because of the death of deceased Ramesh Shinde.

6. Further, I do not see any reason to cause interference in the findings recorded by the learned District Court on merits. The reasons which are stated for occurrence of delay are not at all convincing. Though, the learned counsel has placed his reliance on the judgment of the Hon'ble Apex Court in the case of **Collector, Land Acquisition, Anantnag and Another V/s. MST. Katiji and Others** reported in **AIR 1987 SC 1353**, having regard to the facts of the instant matter, the same may not be of any help to the

petitioner. The judgment which has been relied upon by the learned District Judge in the case of **N. Balakrishnan Vs. M. Krishnamurthy** reported in **1998 (7) SCC 123**, seems to be more applicable in the facts of the present case. As has been observed by the Apex Court in the said judgment, the length of the delay does not much matter; if good reasons are assigned, the delay of a huge period also can be condoned, however, in absence of any cogent reason, the delay of even a shortest period cannot be condoned. In the present matter, as observed by the learned District Judge the reasons assigned for occurrence of delay are not at all justifiable. I do not see any reason for interference in the findings so recorded by the learned District Judge. Moreover, it would always be open for the present petitioners, if any such occasion arises to move the concerned authorities on a fresh cause of action. Petition being devoid of any merit, stands dismissed.

(P.R. BORA)
JUDGE