

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.96 OF 2017
IN
CIVIL REVISION APPLICATION NO.147 OF 2017**

**Shri. Subramaniam
since deceased through LRs
Smt. Radhamani & ors.**

: Applicants.

Versus

**Radhashankar Shamnarayan Rai
since deceased through LRs
Prabhakar Rai and ors.**

: Respondents.

Mr. C G Gavnekar for the Applicants.

Mr. Irfan Momin i/by Mr. Rafique Ahmed Shaikh for the Respondent No.2.

CORAM : R. M. SAVANT, J.

DATE : 21st APRIL 2017

P.C.

1 The above Civil Application has been filed seeking condonation of delay in filing the above Civil Revision Application. The above Civil Revision Application is filed against the judgment and order dated 22/07/2013 passed by the Appellate Bench of the Small Causes Court confirming the decree passed by the trial Court. The Applicants had originally filed a Writ Petition in this Court on 31/08/2013 which was numbered as Writ Petition No.5216 of 2014. The said Petition was pending admission till 02/02/2017 on which day a learned Single Judge of this Court permitted the Applicants to withdraw the said Writ Petition with liberty to file a Civil Revision Application. The above Civil Revision Application has been filed on 13/03/2017. The intervening

period i.e. the period between filing of the writ petition and the withdrawal of the writ petition with liberty to file a civil revision application, is the delay which has occasioned in filing the above Civil Revision Application. The delay is sought to be explained on the ground that the Applicants were bonafide prosecuting the said writ petition till 02/02/2017. In my view, case for condonation of delay is made out. The above Civil Application is accordingly allowed. Resultantly the delay in filing the above Civil Revision Application is condoned. List the above Civil Revision Application for admission on 14/06/2017. The learned counsel for the Respondent No.2 Shri Irfan Momin i/by Mr. Raifque Ahmed Shaikh waives notice on behalf of the Respondent No.2 The above Civil Application is accordingly disposed of.

[R.M.SAVANT, J]