

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

CIVIL APPLICATION NO.426 OF 2016
IN
CIVIL REVISION APPLICATION NO.71 OF 2012

Dr. Avadhut Vasudeo Agashe ... Applicant
Vs
Smt. Sindhu Vasudeo Agashe (deceased) & Ors. ... Respondents

...

None for the Applicant.
Mr. S. C. Wakankar for the Respondents.

CORAM : M. S. SONAK, J.
DATE :24 NOVEMBER, 2017

P.C. :

1. This matter was posted today in order to enable the Applicant to take instructions on the issue of withdrawal. However, today, neither the Applicant nor his Advocate is present.

2. The Civil Revision Application was dismissed as against Respondent Nos. 1, 2 and 4 by order dated 21st August 2012. Thereafter, on 11th November 2013, this Court, granted time to the Applicant to take out an application for restoration on or before 9th December 2013. In the said order, it was made clear that if such steps are not taken, the entire

CRA was to stand dismissed without further order of the Court. No steps were taken and therefore, on 9th December 2013, the CRA stood dismissed for non-prosecution.

3. By Civil Application No. 426/2016 taken out after delay of almost 433 days, restoration is applied for. As of now, the evidence in the main Suit has substantially progressed.

4. The Civil Revision Application was challenging the order by which the learned Trial Judge had dismissed the Applicant's application under Order 7 Rule 11 of the Civil Procedure Code, seeking rejection of the plaint. The learned counsel for the respondent points out that there are already directions issued by this Court for expeditious disposal of the suit in a time bound manner.

5. Taking into consideration all the aforesaid circumstances, no useful purpose will be served by restoring Civil Application at this point of time. Accordingly, the Civil Application is dismissed. As a result, the Civil Revision Application also stands dismissed.

6. This is, however, made clear that in case the suit is ultimately decided against the Applicant and the applicant choses to institute a substantive appeal against the decree of the suit, then, the Applicant, will

be at liberty to challenge the order impugned in the Civil Revision Application in the substantive appeal against such decree.

7. With the aforesaid observation, Civil Application and the Civil Revision Application stand disposed of.

(M. S. SONAK, J.)