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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.188 OF 2016

IN

CIVIL APPLICATION NO.80 OF 2016

IN

REJECTED CASE NO.1798 OF 2016

Dhribhai Babubhai Patel & Ors.

..Applicants.

V/s.

Smt. Meena Shantilal Patel & Ors.

..Respondents.

Mr. Rakesh Agrawal for the Applicants.

None for the Respondents.

CORAM : N.M.Jamdar, J.

DATED : 12 January, 2017

P.C. :-

This civil application is taken out for recalling the conditional order dated 11 April, 2016 dismissing the Civil Application No.80 of 2016 in Civil Revision Application (St) No.1500 of 2016, which was filed for condonation of delay. Reply affidavit has been filed. Perused the reply. Considering the case made out in the application and that delay is of 80 days, I am of the opinion that opportunity needs to be given to the Applicants.

Accordingly, Civil Application No.80 of 2016 stands restored to the file and is taken up for consideration.

2. By Civil Application No.80 of 2016, the Applicants has sought condonation of 121 days delay in filing the Revision Application. Notices have been issued in the civil application. During the hearing of this application, I have gone through the challenge in the main Revision Application. The challenge is to the order dated 10 June, 2015 wherein the preliminary issue has been held in favour of Respondent No.2 that the Court has jurisdiction to try the suit. The object of section 9A of the Civil Procedure Code is to ensure speedy disposal of the suit. The impugned order is passed on 10 June, 2015. Thereafter, the Applicants have filed the present revision application with delay of 121 days. Even that application is not pursued diligently and after dismissal of the same, application for restoration is filed with delay. Considering these factors, I am not inclined to interfere with the impugned order and I am inclined to leave the issue of jurisdiction open to be urged by the Applicants in the appellate proceedings from the final decision. Accordingly, Civil Application No.188 of 2016 for condonation of delay and the revision application stand disposed of with the above clarification.

(N.M.Jamdar, J.)