

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.483 OF 2016

Prabhakar Nivrutti Aadhav ... Applicant
Vs.
Dashrath Dagu Janjale and others ... Respondents

Mr. Anilkumar Patil for Applicant.

CORAM : R. G. KETKAR, J.
DATE : JANUARY 04, 2017

P.C. :

Heard Mr. Patil, learned Counsel for Applicant at length.

2. By this Application under Section 115 of the Code of Civil Procedure, 1908 (for short 'C.P.C.'), applicant has challenged the judgment and order dated 29.03.2016 passed by the learned Joint Civil Judge, Junior Division, Pimpalgaon (B) in Civil Miscellaneous Application No.19 of 2014. By that order, the learned trial Judge allowed the application made by the respondent-plaintiff and restored Regular Civil Suit No.28 of 2009 to its original stage subject to depositing amount of Rs.2,000/- towards the costs to be paid to the applicant herein vide Sections 35, 35-B and 151 of the C.P.C. On 17.06.2014, the learned trial Judge dismissed the Suit in default. On 26.06.2014, plaintiff filed application for restoration. By the impugned order, the learned trial Judge has allowed the application subject to payment of costs. Mr. Patil submitted that the plaintiff is protracting the hearing of the Suit. Applicant is a senior citizen and if the Court is not inclined to interfere with the impugned order, the learned trial Judge may be directed to dispose of the Suit in a time bound manner.

3. Having regard to the fact that immediately after dismissal of the

Suit in default on 17.06.2014, plaintiff filed application on 26.06.2014 for restoration, I do not find that the learned trial Judge has committed any error in allowing the application. Hence, Application fails and the same is dismissed. Applicant is at liberty to file application before the trial Court for disposal of the Suit in a time bound manner. If such application is made, the learned trial Judge will bear in mind that the applicant is a senior citizen.

(R. G. KETKAR, J.)

Minal Parab