

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 2809 OF 2016
IN
WRIT PETITION NO. 5811 OF 2015

Harun Kamal Patel & Ors.	...	Petitioners
Vs.		
Dilshad Abdul Ajij Shaikh & Ors.	...	Respondents

Mr.M.A.Parab i/b. Mr. Pravartak Pathak, for the petitioners.
None for the respondents.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 7th November, 2017.

P.C.

Rule.

By an order dated 21.7.2016, the petition was dismissed against the respondent Nos. 2 and 4 for want of service. The learned counsel submits that the address of the respondent No.2 had changed and therefore he could not give the fresh address within the stipulated time. So far as respondent No.4 is concerned, the notice could not be served to the concerned department for want of extension of time.

2. The learned counsel for the petitioners submits that the petitioners could not take proper steps against the unserved respondents and prays for restoring the petition as against respondent Nos. 2 and 4.

3. The suit is of the year 2011. The present petition was filed on 11.6.2015 and by an order dated 2.7.2015 further proceedings in Regular

Civil Suit No.35 of 2011 were stayed. It appears that the C.A. was never circulated as the matter was notified for admission. The application is filed on 25.8.2016. There was a delay in filing the said application seeking restoration. In the interest of justice, the application deserves to be allowed and the petition is allowed to be restored as against respondent Nos. 2 and 4 subject to payment of costs of Rs.500/- to be deposited in this Court within two weeks from today.

4. Issue notice to the respondents Nos. 2 and 4, returnable on 12.12.2017.

5. The learned counsel for the petitioners shall file spare copies on or before 15.11.2017, failing which the matter shall stand dismissed for want of prosecution.

6. The interim relief granted vide order dated 2.7.2015 stands vacated.

7. Office to communicate this order to the Court of the Joint Civil Judge, Junior Division, Yeola who is seized with Regular Civil Suit No.31 of 2011.

8. The application is allowed in the above terms and stands disposed of.

[SMT. SADHANA S.JADHAV, J.]