

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9587 OF 2012***

Shri Suresh Hari @ Narhari Suryavanshi

Petitioner

Versus

State of Maharashtra & Ors.

...Respondents

Mr. Dilip Bodake, for the Petitioner.

Mr. Vivek K. Salunkhe, for the Respondent Nos. 6 & 7.

Ms. Vaishali Nimbalkar, AGP, for the State.

CORAM : SMT. SADHANA S.JADHAV, J.

DATE : 7th November, 2017.

P.C. :

1. Heard. Rule. Rule returnable forthwith with consent of the parties.
2. The petitioner herein had filed Regular Civil Suit No.192 of 2011. By way of Written Statement, it was contended by the defendant that the suit would be barred by the principles of res judicata. The learned Civil Judge, Senior Division, Baramati, had framed the issue pursuant to the contentions raised in the written statement and has decided the issue whether the suit is barred by principles of res judicata in the affirmative and

has dismissed the suit via judgment and order dated 29.5.2012. Hence, this Writ Petition.

3. By this petition, the petitioner is seeking restoration of the suit on the premises that no appeal can be filed and secondly that in the subsequent suit, he has given better particulars of the property which was not mentioned in the earlier suit. As on today, the learned counsel admits that the appeal is maintainable and hence leave to file an appeal. The petitioner is at liberty to file an appeal along with an application seeking condonation of delay in the eventuality that the appeal along with the application seeking condonation of delay under Order VII Rule 11 of C.P.C. within four weeks. The learned Judge may consider the application seeking condonation of delay on its own merits.

4. All contentions are kept open.

5. The Petition is disposed of. Rule is discharged.

(SMT. SADHANA S.JADHAV,J.)