

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 928 OF 2011

IN

FIRST APPEAL (ST) NO. 521 OF 1996

The State of Maharashtra and ors.

.. Applicants

vs.

Smt. Gayabai M. Gaikwad and ors.

.. Respondents

Mr. A. A. Palkar, Asst. GP For the Applicants.

CORAM : M. S. SONAK, J.

DATE : 04 JANUARY 2017.

P.C. :-

1] First Appeal (St.) No. 521 of 1996 impugns the award of the Motor Accident Claims Tribunal (MACT), Satara made on 30 January 1995. Since there was delay of over 246 days in instituting the appeal, civil application No. 7469 of 1999 was filed in the said appeal seeking condonation of delay. This was dismissed for non-prosecution.

2] Thereafter, the applicants took out Civil Application No. 1235 of 2009 seeking restoration. Since none appeared for the applicants when the matter was called out on 17 September 2010 and 1 October 2010, the application for restoration was dismissed. However, upon oral prayer the same was restored.

3] On 14 October 2010, once again, since none appeared for the applicants, the restoration of the application was dismissed.

4] Now, the applicants have taken out Civil Application No. 928 of 2011 seeking restoration of Civil Application No. 1235 of 2009,

which was itself for restoration of Civil Application No. 7469 of 1999.

5] In this matter, again, there were no proper steps taken to effect service upon the respondents despite several opportunities being granted in the matter. The record indicates that as per order dated 21 September 2011 since no steps were taken upon unserved respondent Nos.1 to 3, 4A to 4C (iii) and 5, civil application stands dismissed as against the said respondents.

6] There are no steps taken to seek recall of the aforesaid order. The application in the circumstances dismissed as against substantial number of respondents. There are no steps being taken diligently to pursue this matter. In the meantime, in all probabilities, the applicants have avoided effecting payments to the claimants in terms of the impugned order of the MACT. The original matter relates to the year 1996. At least for this reason, greater diligence was expected from the applicants. However, considering the nature of the matter and the circumstances that the claimants were widow and two sons, greater sensitivity was also expected from the applicants.

7] Upon cumulative consideration of all the aforesaid circumstances, the plea of the learned counsel for the applicants that the matter be adjourned by further four weeks cannot be accepted. This application is dismissed for non-prosecution. As a result, the first appeal and any pending civil applications therein also stand dismissed.

(M. S. SONAK, J.)