

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 386 OF 2017
IN
CIVIL APPLICATION NO. 3922 OF 2012
IN
FIRST APPEAL (ST.) NO. 19030 OF 2012
AND
CIVIL APPLICATION NO. 3922 OF 2012**

Anil Lekhraj Khosla & Ors. Applicants/Appellants
V/s.
Mrs. Sangeeta Ramchand Respondent

Ms. Sharon Patole, Advocate for the Applicants.
Ms. Sucheta Joshi Dongre i/b Mr. Pankaj Thatte for the respondent.

**CORAM : M.S. SONAK, J.
DATE : 17th MARCH, 2017.**

P.C. :

1 Heard learned counsel for the parties.

2 In terms of the order dated 24.04.2015, the application in C.A. No.3922 of 2012 was allowed. The amendment was to be carried out in the First Appeal as well as Civil Application within six weeks failing which it was made clear that the Civil Application would stand dismissed without any further reference to this Court. It appears that no such amendment is carried out and there is no

explanation as to why this exercise could not be completed within the stipulated period. The learned counsel for the respondent points out that the applicants have been, throughout, indolent in taking steps. She further points out that further, the applicants, have instituted proceedings before the other Courts and only after such other proceedings were objected to, the present Civil Application has been taken out. She submits that this is not a case where any indulgence ought to be shown to the applicants/appellants.

3 Upon taking into consideration the explanation furnished, relief as applied for in the Civil Application can be granted. However, this will have to be subject to payment of cost, since, it does appears that the applicants/appellants have been tardy in taking steps.

4 Accordingly Civil Application No.386 of 2017 is allowed. Civil Application No.3922 of 2012 is restored. Civil Application No.3922 of 2012 is allowed in terms of prayer clause (a). However, amendment is to be carried out within three weeks from today failing which, Civil Application No.3922 of 2012 once again stands dismissed without any further reference to this Court.

5 The aforesaid relief is granted subject to the condition that the applicants pay cost of Rs.25,000/- to respondent No.1 i.e. Mrs. Sangeeta Ramchand, within a period of two weeks from today. Upon depositing, respondent No.1 shall be entitled to be withdraw the amount of cost unconditionally. Amendment must be carried out within three weeks.

(M.S. SONAK, J.)