

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

C.A.O. NO.565/2017
IN
M.C.A. STAMP NO.8952/2017
IN
REJ. M.C.A. NO.61/2014 (STAMP NO.3170/2013)
IN
WRIT PETITION NO.1841/2011 (D)

M/s. Rahimatulla Haji Suleman Lala, through its Partners

..Vs..

Resident Deputy Collector, Wardha and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri T.G. Bansod, Advocate for the petitioners.
Shri A.A. Naik, Advocate for respondent No.2.

CORAM : S.C. GUPTE, J.

DATE : 26.9.2017.

Civil Application No.565/2017 is for condonation of delay in restoring the M.C.A. Stamp No.8952/2017. M.C.A. Stamp No.8952/2017 is for restoration of M.C.A. Stamp No.3170/2013. M.C.A. Stamp No.3170/2013 is for restoration of Writ Petition No.1841/2011.

The series of restorations may be viewed with reference to the first order passed in Writ Petition No.1841/2011. This was a petition challenging an appellate order passed by the Resident Deputy Collector in a rent control matter. The Rent Controller had originally granted permission to issue a quit notice to the

respondent - landlord. The petitioner's appeal from that order was rejected by the Resident Deputy Collector. This order was challenged in a writ petition. The writ petition was dismissed for want of prosecution on 12th March, 2012. The order passed by this Court records filing of a pursis by learned counsel for the petitioner stating that he was reporting no instructions on behalf of the petitioner and in view of this pursis the petition is dismissed. Miscellaneous Civil Application (Stamp) No.6672/2012 was thereafter filed. That application was rejected for non-removal of office objections. A restoration application in respect of rejected M.C.A. was taken out with an application for condonation of delay. These applications were allowed and M.C.A. Stamp no.6672/2012 was restored. On 1st May, 2012, an application was made on behalf of the petitioner for withdrawal of the miscellaneous civil application with liberty to file a fresh and proper application. The miscellaneous civil application was accordingly allowed to be withdrawn with liberty. A civil application was thereafter taken out for restoration of miscellaneous civil application once again. Once again, that civil application was dismissed for want of prosecution. This last order was passed on 23rd January, 2014. In the meantime, there was no stay to the order of the Rent Controller, which was confirmed in appeal by the Resident Deputy Collector, granting permission to issue a quit notice. In pursuance of that order, the respondent - landlord issued a quit notice and sought possession. He thereafter filed

an eviction suit. The suit came to be decreed. An appeal filed by the petitioner herein challenging that decree was dismissed by the appellate Court. A civil revision application challenging that dismissal was dismissed by this Court holding *inter alia* that the permission to issue quit notice had become final and the quit notice issued in response to this permission was duly served on the tenant, and that there was no case to interfere in the revisional jurisdiction of this Court. This order was passed on 22nd March, 2017. After so much water was flown, the present civil application is moved for restoration of the restoration application, as noted above. The excuse sought to be made out in the application is a delightful one liner, namely, “the applicant is a common lay man and no lawyer has ever advised him to file application for restoration”. The fate of such an application is a foregone conclusion. And that conclusion is of rejection. The application is **rejected**. Since the matter was argued by learned counsel for the applicants displaying a fair attitude, no costs are levied.

JUDGE