

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO. 7083 of 2018

Sau. Vijaya Sanjeev Patil
age 46 years occupation household
R/o Shirdane Taluka and District Dhule **...Petitioner**

VERSUS

Vana Motiram Patil (died)
through legal representatives:

1. Amrut Vana Patil,
age 42 years occupation agriculture
R/o Shirdane Taluka and District Dhule
2. Sau. Pratibha Vijay Patil,
age 34 years occupation and R/o as above. **...Respondents**

Mr Mukul S. Kulkarni, Advocate for petitioner

CORAM : SUNIL P. DESHMUKH, J.

DATE : 9th July, 2018

ORDER :

1. Learned counsel for petitioner-original defendant makes reference to reasons, as appearing in miscellaneous civil application for condonation of delay occurred in filing petition for restoration of suit by respondents-plaintiffs and also having regard to statements occurring in examination-in-chief as well as in cross-examination of respondent No.1 and submits that apparently one can say that the court had given undue indulgence to respondents-original plaintiffs. He submits that the suit has been

filed in the year 2014 and since then respondents have not been prosecuting the suit; and further that application filed by respondents seeking restoration of suit as well as deposition of plaintiff No.1 in said miscellaneous civil application would show that respondents are not serious and are casual in their approach. He submits that, yet the court has purportedly given indulgence to respondents, as such, the order impugned needs interference.

2. Though learned counsel for petitioner has contended that order impugned being not sustainable and urged not to consider request in the application by respondents-plaintiffs, yet having regard to that the respondents appear to be persons, not educationally and economically well placed, were stated to be away from the State for earning livelihood, which aspect is not seriously disputed, and while it appears that their responses and actions have been as per the guidance coming their way, it may receive its due.

3. In the circumstances, discretion used by the court in larger interest of justice does not appear to be arbitrary or unreasonable. The writ petition, therefore, is not entertained and is rejected.

**(SUNIL P. DESHMUKH)
JUDGE.**