

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.12509 OF 2018
AND
APPEAL FROM ORDER (ST) NO. 28043 OF 2018
WITH
CA/12508/2018 IN AOST/28043/2018

VYANKAT RANGRAO SHINDE AND OTHER
VERSUS
SHIVAJI TATYA RONGE AND OTHER

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Advocate for Applicants : Shri Patil Shrikant Y.
Advocate for Respondents : Shri Suryawanshi Kamlakar J.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: December 10, 2018

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PER COURT :-

1. I have heard the learned Advocates for the parties.
2. Issue is as regards condonation of 128 days delay caused in filing the Appeal from Order. The applicants submit that the reasons for the delay are set out in the application. If the delay is not condoned, they would be remediless.
3. The respondents contend that the reasons assigned are not satisfactory and this application be rejected with costs. It is submitted in the alternative, that if this application is entertained, heavy costs may be imposed and the amount be donated for the treatment of poor patients.

4. Considering the above, the civil application is allowed. Delay of 128 days is condoned on the condition that the applicants shall deposit an amount of Rs.1,000/- on/or before 21.12.2018 with the Government Medical College and Hospital, Aurangabad, **through Medical Officer, High Court Dispensary, Aurangabad**, either in cash or by Demand Draft (Demand Draft be drawn in the name of “**Dean, Government Medical College and Hospital Dengi Samiti, Aurangabad**”) and shall report compliance of this direction by producing a receipt of having deposited the amount, before the Registrar (Judicial) of this Court on or before 22.12.2018.

5. On the condition that the amount shall be deposited as directed, the Appeal from Order is taken up for hearing, by consent of the parties. I have heard the learned Advocates at length and have perused the impugned order dated 5.2.2018, which is an interlocutory order.

6. I find that the issue before the appellate Court is as regards an injunctory relief sought by the original plaintiffs. RCA No. 66 of 2017 is ready for a final hearing since it is an appeal. If the appeal paper book is not ready, the appellants before this Court make a statement that the private paper book shall be supplied within 30 days from today.

7. On the condition that the paper book shall be made available for the appellate Court within 30 days, in either ways as noted above, the appellate Court shall decide RCA No.66 of 2017 on/or before the 30.3.2019. Prayers for adjournment, if based on unreasonable grounds, would be refused by the appellate Court. Any third party rights created in the suit property would be subject to the result of the pending proceedings.

8. The Appeal from order be disposed off on it's own merits.

9. Pending Civil Application, if any, does not survive and stands disposed off.

(RAVINDRA V. GHUGE, J.)

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