

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

CIVIL APPLICATION NO. 4772 OF 2013
IN WP/1148/2004 WITH WP/4097/2014 WITH WP/11816/2014

AVINASH PANDURANG PATIL AND ORS
VERSUS
STATE OF MAH AND ORS

Mr.S.R.Barlinge, Advocate for the applicants
Mr.P.R.Katneshwarkar, Advocate for respondent No.5
Mr.M.A.Deshpande, AGP for the respondent/State
Mr.Prakashsing B. Patil, Advocate for respondent
Nos. 5 and 6

**CORAM : S.V. GANGAPURWALA &
S.M.GAVHANE, JJ.**

DATED : 07.09.2018

P.C. :-

. The present application is filed for restoration of the writ petition.

2. The writ petition stood disposed of under the order dated 15.07.2009 on the ground that the petitioner sought leave to withdraw the petition and petition was dismissed as withdrawn.

3. Mr. Barlinge, learned counsel for the petitioner submits that it was on the basis of assurance given by the respondent the statement was made for withdrawal. However, the management

resiled.

4. Mr. Patil, learned counsel submits that the management had at no material point of time had given assurance to the applicants. The letter/documents placed on record, even remotely does not suggest that assurance was given by the management.

5. We had asked the learned counsel for the applicant as to how the present application will be maintainable after the petitioner sought withdrawal. The learned counsel submits that he had filed the writ petition, however in said writ petition liberty was granted by the Court to make application in disposed of matter.

6. The order passed by this Court in substantive writ petition No.7809/2010 reads thus:

1. "Heard Adv. Mr.S.R.Barlinge, for the petitioner, learned AGP Mr.K.S.Patil, for respondent Nos. 1 to 4 and Adv. Mr.P.B.Patil, for respondent NO.5. Nobody for respondent No.6 though served."

2. We find that a contempt petition filed by the present petitioners was withdrawn by them on 14th July 2009, on account of some compromise. A substantive Writ Petition filed has also been withdrawn on the next day i.e. 15th July 2009.

3. In view of the prayers made in the petition, it is obvious that present prayers cannot be independently looked into by this Court.

4. Hence, with liberty to the petitioners to move appropriate application in disposed of matters, we dispose of the present Writ Petition. No costs.

7. In light of aforesaid order passed by this Court we have entertained the present application.

8. As far as the contentions raised by the petitioner and the respondent on the merits of the matter is concerned, this would be subject matter of the consideration while dealing with writ petition.

9. Considering the aforesaid aspects of the matter, the civil application is allowed. The writ petition is restored.

10. The Civil Application is disposed of.

[S . M . GAVHANE , J .]

[S . V . GANGAPURWALA , J .]