

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

***CIVIL APPLICATION NO.568 OF 2018
IN
CIVIL REVISION APPLICATION NO.42 OF 2006***

Jamanulla Rahimtullas Ustad (since deceased)
through his legal heirs

Shahidabegam Jamanulla Ustad & Ors.

.. Applicants

Vs.

Hanifabi Nabiso Attar & Ors.

.. Respondents

Mr.Omkar Nagavekar i/by Ms.Prabha Badadare for the applicants.

Mr.Vilas A Jadhav h/f Mr.Hardikar for the respondent no.1.

CORAM : R.D. DHANUKA, J.

DATE : 17th October 2018

P.C.:

. By this application, the applicants seek condonation of delay in filing the application and pray for setting aside the order dated 16th June 2014 passed by this Court dismissing the civil revision application for default.

2. Learned counsel for the applicants states that the respondents have been served through their respective advocates. Statement is accepted.

3. I have heard the learned counsel for the applicant and the learned counsel for the respondent no.1. Learned counsel for the respondent no.1 states that the learned advocate on record has already returned the papers and proceedings to his client four years ago. He however, does not dispute that the learned advocate has accepted the

service of the papers and proceedings and also does not dispute that the learned advocate has not taken discharge in the matter till date and his vakalatnama is continued.

4. I am thus not inclined to accept the submission of the learned counsel for the respondent no.1 that the matter shall not be proceeded with in these circumstances.

5. For the reasons record in the civil application, applicant has made out a case for recall of the order dated 16th June 2014 passed by this Court and for condonation of delay of 35 days in filing the application.

6. Civil application is made absolute in terms of prayer clause (b). Civil Revision Application No.42 of 2006 is restored to file along with the interim order which was in force on the date of the order dated 16th June 2014 passed by this Court.

R.D. DHANUKA, J.