

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1689/2017
IN
WRIT PETITION NO.11398/2014

Bhaskar Ganpat Shirsekar ... Applicant

V/s.

Abhijit Balavant Rane & Anr. ... Respondents

Mr. S. S. Redij for the Applicant
Mr. Vijay Badgujar with Vidyadhar Shinde I/b. Singhania Legal
Service for Respondent No.1.

CORAM: K.K. TATED, J.

DATED : DECEMBER 5, 2018

P.C. :

1 Heard. By this Civil Application, the Applicant is seeking to recall the order dated 26.08.2016 passed in the Writ Petition by which the Writ Petition stood dismissed against the unserved Respondent No.2.

2 The learned counsel for the Applicant submits that to find out the present correct address of Respondent No.2, the Applicant took some time. Hence, there is delay in taking out the Civil Application. He submits that after taking all efforts, the Applicant learnt the new address as stated in para 4 of the Civil Application i.e. Shop No.3, Ocean Residency, Plot No.93, Sector 21, Kamothe, Navi Mumbai.

3 The learned counsel for the Applicant submits that in the interest of justice, this Hon'ble Court be pleased to restore the Writ Petition against Respondent No.2 and permit the Petitioner to serve Respondent No.2 on his present correct address.

4 The learned counsel for Respondent No.1 has vehemently opposed the Civil Application . He submits that the Applicant has not made correct statement in the Civil Application. Hence, there is no substance in the Civil Application. It is liable to be dismissed.

5 It is to be noted that for want of present correct address of Respondent No.2, the Applicant could not take immediate steps to serve Respondent No.2 as per the conditional order dated 26.08.2016 passed in the Writ Petition.

6 Considering the submissions made by the learned counsel for the Applicant and the reasons disclosed in the Civil Application, I am of the opinion that the Applicant has made out a case for allowing the Civil Application.

7 Hence, following order is passed.

a. Delay in making the Civil Application is condoned.

b. The Writ Petition is restored to file against Respondent No.2.

- c. The Applicant is permitted to carry out amendment in the cause title of the Writ Petition to show present correct address of Respondent No.2.
- d. If amendment is carried out on or before 19.01.2019, office to issue fresh notice to Respondent No.2 at the present correct address, in the Writ Petition.
- e. If amendment is not carried out within stipulated time as stated hereinabove, the Civil Application shall stand dismissed without further reference to the court.
- f. In addition to usual mode of service, the Applicant is permitted to the serve Respondent No.2 at his present correct address, in the Writ Petition, along with entire proceedings either by registered post and/or by hand delivery and file an Affidavit of Service to that effect on or before 31.01.2019.
- g. Civil Application stands disposed of accordingly.
- h. No order as to costs.

(K. K. TATED, J.)