

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1462 OF 2015

IN

WRIT PETITION (ST) NO. 31078 OF 2009

Bhagwan Sitaram Nikam & Ors. ..Applicants

Vs.

State of Maharashtra & Ors. ..Respondents

Mrs. Vrushali Penkar i/b. Preeti B. Walimbe, for the Applicants.

Mr. V. N. Sagare, AGP, for the Respondent Nos.2 to 4

CORAM:-K. K. TATED & B. P. COLABAWALLA,JJ.

DATE :- APRIL 12, 2018.

P. C.:

Heard. By this Civil Application, the Applicant is seeking to set aside the conditional order dated 5th December, 2011 passed by the learned Registrar (Judicial-II) by which Writ Petition stood dismissed for non removal of office objections.

2 The learned counsel for the Applicant submits that by mistake it remained on the part of the learned counsel for the Applicant

to remove office objections within stipulated time. She submits that the Applicant has good chance of success in the present proceedings. She further submits that in the interest of justice, this Hon'ble Court be pleased to allow the Civil Application and restore Writ Petition on Board for hearing on its own merits.

3 The learned counsel for the Applicant undertakes to remove all office objections in the Writ Petition within four weeks from today.

4 On the other hand, the learned AGP appearing on behalf of the Respondent vehemently opposed the present Civil Application. He submits that the Applicant has not shown sufficient cause for condonation of more than 398 days delay in filing the Civil Application. Hence there is no substance in the present civil application and the same is required to be dismissed with costs.

5 It is to be noted that because of the mistake on the part of the advocate the litigant should not suffer. In the present matter it is the duty of the advocate to remove all office objections which she failed and neglected to do within stipulated time.

6 Considering the fact that the Applicant is ready and willing to remove all office objections within four weeks from today, we are satisfied that the Applicant has made out a case for allowing this Civil Application. At the same time, the Applicant has to pay costs of Rs. 5,000/-.

7 Hence, the following order:-

- a) Delay in preferring the Civil Application is condoned.
- b) The conditional order dated 5th December, 2011 passed by the learned Registrar(Judicial-II) by which Writ Petition stood dismissed for non removal of office objections, is set aside.
- c) Writ Petition(st)No.31078 of 2009 is restored on file for hearing on its own merits.
- d) The Applicant to remove all office objections in the Writ Petition within four weeks from today failing which the Writ Petition shall stand dismissed for non removal of office objections without further reference to court.
- e) The Applicant to pay costs of Rs.5,000/-.
- f) Costs to be deposited with Kirtikar Law Library, High Court, Bombay within three weeks from today, failing which the Civil Application shall stand dismissed without further Reference to court.
- g) Civil Application stands disposed of.

(B. P. COLABAWALLA, J.)

(K. K. TATED, J.)