

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.848/2017
IN
WRIT PETITION NO.6923/2014

Dashrath Dagdu Mungase (Deceased)
Through Legal Heirs ... Applicants

V/s.

Tahasildar, Tq. Khed & Ors. ... Respondents

Mr. Y. B. Lengare i/b. Ashish P. Pawar for the Applicant
Mrs. Madhubala Kajale, "B" Panel Counsel for Respondents

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

DATED : MARCH 16, 2018

PC. :

1 Heard. This Application is made by the original Petitioner for restoration of the Writ Petition which stood dismissed for non compliance of conditional order dated 05.05.2015.

2 The learned counsel for the Applicant submits that it remained on the part of the advocate on record to intimate the Applicant about the order dated 05.05.2015. To that effect, the learned counsel for the Applicant relied on paragraph 4 to 6 of the Civil Application. He submits that the Applicant undertakes to comply with order dated 05.05.2015 within two weeks from today. He further submits that if

the Civil Application is not allowed irreparable loss will be caused to them. He submits that the Applicant has good chance of success in the matter.

3 On the other hand the learned AGP has vehemently opposed the Civil Application. He submits that there is delay of more than 598 days in making the Civil Application. He submits that the Applicant has not shown sufficient cause for condonation of delay. Hence, there is no substance in the Civil Application.

4 Considering these facts and because of mistake on the part of an advocate a litigant should not suffer we are of the opinion that the Applicant has made out a case for allowing the present Civil Application.

5 Hence, following order is passed:

- a. Writ Petition No.6923/2014 is restored to file for hearing on merits.
- b Time to comply with order dated 05.05.2015 is extended till 09.04.2018.
- c. If order dated 05.05.2015 is not complied with within stipulated time as stated hereinabove, the Civil Application shall stand dismissed without further reference to the court.
- d The Applicant has to pay cost of Rs.10,000/-.

e Cost shall be paid to Kirtikar Law Library, High Court, Mumbai, within four weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

f Civil application stands disposed off accordingly.

(B. P. COLABAWALLA, J.)

(K.K. TATED, J.)