

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.587 OF 2017

Shantinath Tavnnappa Belvanki & Ors.	 Applicants
V/s.	
Ragunathrao Vishnupant Ganbavale (Since Deceased), through LR :- Shrikrishna Ragunathrao Ganbavale	 Respondent

Mr. Nikhil N. Pawar for the Applicants.

Mr. Rahul P. Walvekar for the Respondent.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 12TH MARCH 2018.

P.C. :

1. Heard Mr. Pawar, learned counsel for the Applicants, and Mr. Walvekar, learned counsel for the Respondent.

2. This Revision Application is preferred, under Section 115 of the Code of Civil Procedure, 1908, challenging the order dated 24th April 2017 passed by the District Judge-1, Kolhapur, thereby allowing Miscellaneous Civil Application No.356 of 2012 filed by the present Respondent, seeking condonation of delay of 187 days, that had occurred in preferring First Appeal against the 'Judgment and Decree' of specific performance of the Contract, passed by the Court of Joint Civil Judge,

Senior Division, Kolhapur in Special Civil Suit No.306 of 1999 on 14th March 2008.

3. The said 'Decree' was of specific performance of the Contract and thus, pertaining to immovable property. The impugned order passed by the Appellate Court also goes to show that, the Respondent had given sufficient reason for condonation of delay as Applicant-Respondent No.1 has suffered from massive heart-attack and Respondent NO.2, his son, was occupied in attending to Respondent No.1 and was taking treatment. The Appellate Court has also found that, Respondent No.1 has to undergo the surgery of Abyssees on 26th January 2009 and was hospitalized upto 6th February 2009. The Appellate Court found that, though there is a delay, that delay cannot be called as intentional or deliberate one and hence, the Appellate Court has, by relying upon the documentary evidence, like the Medical Certificate, and the oral evidence of the parties, vide its impugned order, allowed the said application and on perusal of the impugned order, I do not find any reason to interfere in the same in the revisional jurisdiction.

4. In order to compensate the present Applicants, the Appellate Court has also imposed the costs of Rs.700/- each to the contesting parties i.e. Applicant Nos.1 to 8, and, therefore, one cannot say that the Appellate Court has not considered that aspect of the matter also.

5. In view thereof, no reason is made out to interfere in the impugned order passed by the Appellate Court. Revision Application, therefore, stands dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.]