

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****CIVIL APPLICATION (L) NO. 35028 OF 2018****IN****REVIEW PETITION (L) NO. 34389 OF 2018****IN****WRIT PETITION (ST) NO. 15907 OF 2018****Prakash Vithalrao Kavthekar & Ors.****..... Applicants****(org. Respondent nos.
4 to 7 & 9)****VERSUS****Bajrang S/o. Manohar Sonavane & Ors.****..... Respondents**

Mr.V.D.Salunke, a/w. Mr.G.K.Naik Thigle, i/b. Mr.A.B.Kakade for the Applicants in review petition and civil application.

Mr.Shailendra Kanetkar for the Respondents.

CORAM : R.D. DHANUKA, J.**DATE : 10th DECEMBER, 2018****P.C.**

Not on board. Taken on board.

2. By this civil application, the applicants (original respondent nos. 4 to 7 and 9) seeks a declaration that there is no delay in filing review petition and in case this court comes to the conclusion that there is any delay in filing review petition, the same may be condoned.

3. The applicants seek recall of the order dated 13th June, 2018 in Writ Petition (St) No.15907 of 2018. The said order was admittedly passed *ex-parte* insofar as these applicants are concerned. The applicants thereafter appeared before this court and filed affidavit in

reply opposing the writ petition on various grounds including the ground of jurisdiction. The matter appeared before Smt.Revati Mohite Dere, J. on 17th September, 2018. This court was of the view that since the applicants seeks recall of the order passed by R.D.Dhanuka, J., this court directed the registry to take steps to place the matter before this court presided over by R.D.Dhanuka, J. The matter thereafter appeared before this court on 27th November,2018 when this court permitted the applicants to file the review petition for recalling of the order dated 13th June, 2018.

4. The earlier order was passed by this court *ex-parte* and thereafter the applicants have already filed affidavit before this court raising an issue of jurisdiction. In these circumstances, in my view there is no delay in filing review petition. On perusal of the averments made in the civil application, in my view even otherwise the applicants have made out a case for condonation of delay in filing review petition. Civil application is accordingly disposed of in the aforesaid terms. No order as to costs.

[R.D. DHANUKA, J.]