

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 7385 OF 2019
IN
WRIT PETITION NO 2602 OF 1994**

Radhakishan S/o. Baburao Babar
Deceased, through LRs & Ors.

... Applicants

Versus

The District Judge, Jalna & Ors.

.... Respondents

....
Shri. P. P. More h/f Shri. Atul B. Hawale, Advocate for the applicants
Shri. M. R. Sonawane, Advocate for respondent No. 2
....

AND
CIVIL APPLICATION NO. 8756 OF 2019
IN
CIVIL APPLICATION NO. 7385 OF 2019
IN
WRIT PETITION NO 2602 OF 1994

**CORAM : P. R. BORA, J.
DATED : 29th JULY, 2019**

PER COURT:-

1. Heard. The present application is filed with the following prayers:

[a] This Civil Application may kindly be allowed.

[b] The delay caused in filing application for extension time may kindly be condoned and for that purpose issue necessary orders.

[c] By allowing this application this Hon'ble Court may kindly be pleased to extend the time granted to the applicants by order dated 14.07.2017 in writ petition 2602/1994 and for that purpose issue necessary orders.

[d] Any other suitable and equitable relief may kindly be granted and for that purpose issue necessary orders.

2. This Court (Coram : Ravindra V. Ghuge, J.) on 14.07.2017, while allowing the Writ Petition No. 2602 of 1994 has granted liberty to the present applicants to move an appropriate application before the ld. District Judge, Jalna for seeking the recalling of the purshis Exh. 13, dt. 09.11.1994 and for restoring MCA No. 33 of 1994. This Court has further directed the applicants to file such an application within four weeks and the District Court was directed to consider the said application, if filed within the time, and to consider it on its own merits.

3. The applicants did not file the said application within the given period. This is the application filed by the applicants seeking extension of time for filing the said application. Admittedly, the delay of about two years has occurred in preferring the said application. As per the order passed by this Court, within four weeks the applicants

were expected to file such an application. That has admittedly been not filed even though the period of two years has lapsed.

4. I have gone through the reasons which are stated in justification of the delay caused. I am not convinced with any of such reasons. This Court had shown ample latitude in the earlier order having regard to the fact that it was the contention of the applicants that the decree was passed *ex parte* against them. The applicants, however, had not shown the required diligence in approaching the first appellate Court as directed by this Court. It need not be stated that, the delay of even a longer period can be condoned if the just and sufficient cause is shown by the litigant in justification of the delay occurred. As against it, the delay of even a smaller period is not liable to be condoned if no such case is made out. In the instant matter, as I noted herein above, for longer period of two years there is absolutely no justification from the side of the applicants. The application is therefore rejected. Consequently, pending civil application No. 8756 of 2019 also stands disposed of.

[P. R. BORA]
JUDGE