

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

913 CIVIL APPLICATION NO.13359 OF 2018
IN WP/540/2015

NARAYAN SANTRAM WAGH AND OTHERS
VERSUS
ANIL SHANKARRAO MATADE AND OTHERS

...

Advocate for Applicants : Mr. Khandare N.B.
Adv. S S Shete For R-1.

CORAM : P.R. BORA, J.
DATED : 9th April, 2019.

PER COURT:-

1. Heard Shri Khandare, learned counsel for applicants-petitioners and learned Counsel Shri Shete for Respondent No.1.

2. The present application is filed seeking condonation of delay of about two years and 292 days, which has occasioned in filing an application seeking restoration of the writ petition. The learned counsel submitted that a common order was passed by this court in a bunch of petitions on 24th November, 2015, whereby the petitioners in all those petitions were directed to remove the office objections within stipulated time failing which the petitions were to stand dismissed without further reference to the Court. The learned counsel submits

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that the aforesaid common order was inadvertently not noticed either by the petitioners or their counsel and in the circumstances, the petition stood automatically dismissed by virtue of the aforesaid order since the office objections were not removed within the time stipulated in the said order. The learned counsel further submits that the moment the petitioners got knowledge of dismissal of the petition, they have moved the present application seeking condonation of delay caused in filing the application seeking restoration of the petition. The learned counsel submits that the delay caused is bonafide and unintentional.

3. Learned Counsel Shri Shete for the respondent No.1 has tendered across the Bar affidavit in reply of respondent No.1. The same is taken on record. The respondent has strongly opposed for condoning the huge delay stating that inordinate delay has not been appropriately explained and as such no case is made out for condoning the delay. It is further contended that after the interim relief granted in favour of the petitioners stood vacated by virtue of the order

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passed by this court, RCS No.213/2011 has proceeded further and as such, there is no propriety now in condoning the delay and considering the present writ petition on merits.

4. After having considered the submissions, as above, and the fact that the evidence of the defendant has not yet been recorded in the civil suit it appears to me that the writ petition filed by the petitioners needs to be heard on merits by condoning the delay. It does not appear to me the delay caused in filing restoration application is with any malafide intention. In the circumstances, following order is passed, -

ORDER

i. The delay caused in filing the application is condoned. The writ petition No. 540/2015 stand restored to its original position. CA for condonation of delay disposed of.

ii. Place the writ petition for further consideration on 26th April, 2019

(P.R. BORA)
JUDGE

BDV