

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4340 OF 2015

Atmaram Hari Adivrekar and Ors.

... Petitioners

Vs.

Sudhakar Kashiram Sakpal and Ors.

... Respondents

Mr.Saurabh M. Railkar, for the petitioner.

Mr. Rakesh Bhatkar for respondent no.1.

CORAM : NITIN W. SAMBRE, J.

DATE : 11th June, 2019.

P.C. :

The Member, MRT, Mumbai vide impugned order dated 23/12/2014 has rejected the prayer for condonation of delay and setting aside the abatement in bringing the legal representatives of original revision petitioner, who expired on 29.05.2013. The reasons cited for such rejection is, the petitioner has failed to demonstrate the bonafide so as to support the cause of condonation of delay.

2. The petitioner has specifically come out with a case that the counsel for the petitioner was indisposed because of an accident and

thereafter viral infection. He has produced the record supporting the said cause.

3. The aforesaid factual matrix is not disputed.

4. The law issue as regards default of the lawyer should not cause prejudice to the litigants is well settled. Appropriate support can be drawn from the Apex Court in the matter of **Rafiq and another V/s Munshilal and another, (AIR 1981, Supreme Court Cases 1400)**. In the light of above, the order impugned passed by the Member, MRT, Mumbai on 23/12/2014 below Exh. 'A-8' in Revision No. 272 of 2005 is hereby set aside.

5. The application Exh.A-8 stands allowed in terms of prayer clause (a), (b) and (c) subject to the petitioner paying cost of Rs.3000/- to be deposited before the MRT, Mumbai within a period of four weeks from today. The cost is so deposited by the petitioner, the respondents will be entitled to withdraw the same.

6. The petitioner shall carry out appropriate amendment to the

Revision by incorporating the L.Rs.

7. Since the Revision is pending since 2005, it will be appropriate to direct the MRT to dispose the same expeditiously.

8. The petition stands disposed of.

(N. W. SAMBRE J.)