

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.1404 OF 2019
IN
WRIT PETITION NO.11719 OF 2018**

Suresh Raghunath Patil & Ors. ... Applicants
Vs.
Sambhaji Tukaram Patil & Ors. ... Respondents

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Mr. Vighnesh Kalgutkar I/b. The Juris Partners for Applicants.
Mr. S.R. Ghanavat for Respondent Nos.1, 2, 3a and 3b.

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CORAM : M. S. KARNIK, J.

DATE : 6th SEPTEMBER, 2019.

P. C.:

1. Heard learned counsel for the applicants.
2. Leave to amend.
3. This is an application for recalling the order dated 6.12.2018 passed by this Court dismissing the petition for non prosecution.
4. In the application it is stated that there was some communication gap regarding the date and therefore learned counsel could not remain present. He further states that the Clerk

did not inform the advocate about the date. Learned counsel for the respondents opposed the application. He has filed affidavit in reply. He submitted that there is no explanation for delay of 159 days in filing the application.

5. An affidavit is taken on record.

6. However, for the reasons mentioned in the application and in view of the oral submission made by learned counsel for the applicants, I am satisfied with the reasons mentioned for condoning 159 days delay in filing the application. Further, for the reasons mentioned in the application, the application is allowed and the order passed by this Court on 6.12.2018 dismissing the matter for non prosecution is recalled.

7. The Civil application is allowed.

(M. S. KARNIK, J.)