

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7121 OF 2018

Jitendra D. Kaldhone and ors. .. Petitioners
vs.
Tulshiram S. Kaldhone and anr. .. Respondents

Mr. Wasim Samlewale I/b Mr. A.A. Kupade for the
Petitioners.

CORAM : M. S. SONAK, J.
DATE : 26 APRIL 2019.

P.C. :-

1] Heard Mr. Samlewala for the petitioner.

2] The challenge in this petition is to the order dated 19th January 2018 by which learned Trial Judge has dismissed the petitioners' application under section 5 r/w. section 14(2) of the Limitation Act, 1963 seeking condonation /extension of time for institution of the suit.

3] At the outset, it is very clear that the provisions of section 5 of the Limitation Act do not apply to the suits and therefore, the application under section 5 of the Limitation Act cannot be made seeking condonation of delay in filing a suit.

4] Section 14 of the Limitation Act deals with exclusion of time of proceeding bona fide in Court without jurisdiction. If the application made by the petitioners is perused, then, there is absolutely no clarity as to how the provisions of section 14 of the Limitation Act at all apply. This is because there are no averments in the context of any proceedings being filed whether *bona fide* or otherwise in a Court, should, on account of defect of jurisdiction or other cause of a like nature, was unable to entertain.

5] All that the petitioners have stated is that the petitioners were not correctly advised and therefore, proper proceedings were not taken out. On the basis of such averments, there was no question of exclusion of time in terms of section 14 of the Limitation Act.

6] There is no jurisdictional error in the view taken by the learned Trial Judge and therefore, this petition is liable to be dismissed and is hereby dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)