

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10717/2016

Chabutai S. Ubale & Ors.

... Petitioners

V/s.

Sanjay Sitaram Shinde & Ors.

... Respondents

Mr. Mahindra Deshmukh for the Petitioners

Mr. Ajit Savagave for Respondent No.3.

CORAM: K.K. TATED, J.

DATED : MARCH 4, 2019

P.C. :

1 Heard. By this petition under Article 227 of the Constitution of India the Petitioner Defendant Nos.6 to 8 challenge the order dated 04.08.2016 passed by the court below rejecting their Application for stay of the operation and implementation of the decree passed by the Trial Court.

2 The learned counsel for the Respondent submits that before the appellate court, the Petitioner made Misc. Application No.7/2016 for condonation of 3 years, 10 months and 8 days delay in filing the appeal against the judgment and decree in Regular Civil Suit No. 211/2000. He further submits that during pendency of the Writ Petition, the Misc. Application No.7/2016 came to be dismissed for default by order date 03.1.2018. To that effect, he has placed on record a photocopy of the said order. Same is taken on record and marked "X" for identification. In view of this statement, nothing survives in the Writ Petition.

3 The learned counsel for the Petitioner submits that he does not have any instructions whether the Petitioner has made any Application for restoration of the Misc. Civil Application No.7/2016.

4 Considering these facts and in view of dismissal of the restoration Application, following order is passed:

- a. The Writ Petition stands disposed of as infructuous in view of the subsequent development.
- b. Liberty granted to the Petitioner to file fresh petition for the same cause of action in case the appellate court restores the Misc. Application No.7/2016.
- c. No order as to costs.

(K. K. TATED, J.)