

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
CIVIL APPLICATION [STAMP] NO.12075 OF 2019
IN
REVIEW PETITION [STAMP] NO.12071 OF 2019
IN
WRIT PETITION NO.273 OF 2005**

Govind Mahadev Gawas (since deceased)	]	
by his Heirs.	]	
Ashok Govind Gawas and others.	]	Applicants
Vs.		
Pushpalata Gopal Wolikar and another.	]	Respondents

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Mr. Abhijeet Rane, Advocate for the Applicants.

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CORAM : R.G. KETKAR, J.

DATE : 25th APRIL, 2019.

P.C.

Not on board. At the request of Mr. Rane, taken up in the production board.

2. Heard Mr. Rane, learned Counsel for the applicants/review petitioners.

3. Civil Application (Stamp) No.12075 of 2019 is taken out by the Review Petitioners, hereinafter referred to as the 'defendants' for condoning the delay of approximately eleven years caused in filing Review Petition. Review Petition (Stamp) No.12071 of 2019 is instituted seeking review of the order dated 10th July, 2008 passed by this Court in Writ Petition No.273 of 2005. That Petition was instituted challenging the decree of eviction passed by the Courts below. The suit instituted by respondents No.1 and 2, hereinafter referred to as the 'plaintiffs' was decreed. The defendants were directed to quit

and vacate rooms No.3-A and 3-B situate at 460, Ramchandra Poshu Chawl, Bhagat Gulli, Worli, Koliwada, Mumbai – 400 025 (for short 'suit premises') and hand over vacant and peaceful possession of the suit premises to the plaintiffs.

4. The Petition was heard on 22nd April, 2019 when review petitioner No.1 Mr. Ashok Govind Gawas was present in the Court. Upon taking instructions from him, Mr. Rane submitted that the Executing Court has fixed the matter on 24th April, 2019 for passing orders in execution proceedings. Upon taking instructions from him, he made a statement that on or before 24th April, 2019, the defendants will hand over vacant and peaceful possession of the suit premises to the plaintiffs and report the compliance on 25th April, 2019.

5. In view thereof, the matter was ordered to be kept today i.e on 25th April, 2019 at 3.00 p.m under the caption “For Production”. Mr. Rane states that the defendants have not responded and are not instructing him as to whether they have handed over possession of the suit premises to the plaintiffs on or before 24th April, 2019.

6. In view thereof, as Mr. Rane is not in a position to make a positive statement about compliance of the order dated 22nd April, 2019, C.A is dismissed in default. Resultantly, the Review Petition is also dismissed. Liberty is reserved to the review petitioners to apply for restoration of the Civil Application for condonation of delay as also Review Petition only after review petitioners handing over possession of the suit premises to the plaintiffs. Order accordingly.

[R.G. KETKAR, J.]