

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

**CIVIL APPLICATION NO.495 OF 2017
WITH
CIVIL APPLICATION (STAMP) NO.19676 OF 2019
IN
FIRST APPEAL (STAMP) NO.27126 OF 2016
WITH
CIVIL APPLICATION NO.765 OF 2019
WITH
CIVIL APPLICATION NO.2793 OF 2016
WITH
CIVIL APPLICATION NO.2794 OF 2016
IN
FIRST APPEAL (STAMP) NO.17261 OF 2016**

Smt. Samina Naikwadi and Ors.

...Applicants

Versus

Bajirao Kisan Thorat and Ors.

...Respondents

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Ms Sairuchita Choudhary I/b. M/s. J. Shekhar and Co. for the Applicants in CAF/495/2017, CAF/765/2019, CAFST/19676/2019 and for the Respondent Nos.1 to 5 in CAF/2794/2016 and CAF/2793/2016.

Mr. S.M. Dange for the Applicant in CAF/2793/2016, CAF/2794/2016 and for the Appellant in FAST/17261/2016.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 9th AUGUST, 2019.

P.C.:-

ORDER IN CIVIL APPLICATION (STAMP) NO.19676 OF 2019:-

By this application, the Applicants herein have sought to condone the delay in filing the application for restoration of

application No.495 of 2017 filed in First Appeal (stamp) No.27126 of 2016 , which was dismissed as against the Respondent Nos.1 and 3 for non compliance of conditions of the order dated 29th October, 2018.

2. By order dated 29th October, 2018 four weeks' time was granted to the Applicants to serve the unserved Respondent Nos.1 and 3. The Applicants were put to notice that the civil application would stand dismissed in the event the Applicants fail to take steps to serve the Respondent Nos.1 and 3. Failure to take steps led to dismissal of the application as against the Respondent Nos.1 and 3.

3. The learned counsel for the Applicants states that steps will be taken to serve the Respondent Nos.1 and 3 within a period of two weeks. The learned counsel for the Respondent No.2 has no objection for condoning the delay and restoring the application.

4. In the light of the said statement as well as the reasons stated in paragraph Nos. 6 to 10 of the application, which in my considered view constitute sufficient cause, the application is allowed. The delay is condoned. Civil application as against the Respondent Nos.1 and 3 stands restored.

5. The civil application stands disposed of.

ORDER IN CIVIL APPLICATION NO.495 OF 2017:-

6. The application is restored as against the Respondent Nos.1 and 3 in view of the order passed in Civil Application (stamp) No.19676 of 2019. Issue notice to the Respondent Nos.1 and 3, returnable on **30/9/2019**. Private service is permitted.

ORDER IN CIVIL APPLICATION NO.2794 OF 2016:-

7. By this application, the Applicant-Insurance Company has sought to stay the execution and implementation of the order dated 30th December, 2015 passed by the M.A.C.T., Islampur in M.A.C.P. No.26 of 2013.

8. By the impugned judgment and award, the Claims Tribunal has awarded compensation of Rs.25,49,000/- with interest @ 7% per annum from the date of filing of the application till realization of the whole amount.

9. The learned counsel for the Applicant states that the Applicant-Insurance Company has deposited the entire amount as per the impugned judgment and award. The statement is not controverted by the learned counsel for the Respondent Nos.1 to 5/original claimants.

10. In the light of the said statement, execution and implementation of the impugned judgment is stayed till disposal of the appeal.

11. The civil application stands disposed of.

ORDER IN CIVIL APPLICATION NO.765 OF 2019:-

12. The Applicant Nos.2 and 3 are minors. The application does not disclose the name of the guardian. The learned counsel for the Applicants seeks leave to amend the application. Leave is granted. Amendment to be carried out within a period of two weeks. Amended copy of the application to be furnished to the Respondents.

13. Stand over to **30/9/2019**.

(SMT. ANUJA PRABHUDESSAI, J.)