

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

CIVIL APPLICATION NO.85 OF 2018

IN

CONTEMPT PETITION NO.69 OF 2011

The Bombay Diocesan Trust	]	
Association Private Ltd.	]	Applicant
Vs.		
Tanani Ravji Guran (since deceased)	]	
Manohar Tanaji Gurav and others.	]	Respondents

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Mr. Daljeet Singh Bhatia, Advocate for the Applicant.

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CORAM : R.G. KETKAR, J.

DATE : 3rd JULY, 2019.

P.C.

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

2. Heard Mr. Bhatia, learned Counsel for the applicant.

3. By this application, the applicant has prayed for condoning the delay of 6 years and 54 days in filing the application for restoration of Contempt Petition and for recalling the order dated 25th April, 2012, thereby, restoring Contempt Petition No.69 of 2011. Contempt Petition No.69 of 2011 was filed by the applicant alleging breach of the order dated 30th November, 2009 passed by this Court (Coram: Nishita Mhatre, J.) in C.R.A No.470 of 2009. By that order, this Court dismissed C.R.A filed by respondents;

Tanaji Ravji Gurav (since deceased)

1. Manohar Tanaji Gurav
- 2A. Anusaya wd/o Anant Gurav
- 2B. Uday Anant Gurav
- 2C. Kunda Anant Gurav
- 2D. Rajiv Anant Gurav
3. Eknath Tanaji Gurav(since deceased)
- 3a. Sunita Eknath Gurav
- 3b. Prakash s/o Eknath Gurav
- 3c. Shashikant s/o Eknath Gurav
- 3d. Meenakshi d/o Eknath Gurav
4. Raghunath Tanaji Gurav

4. While dismissing C.R.A, subject to the respondents giving usual undertaking by all the adult family members residing in the suit premises within a period of two weeks, time to vacate the suit premises was given up to 31st May, 2010. Mr. Bhatia submitted that as per his instructions, no undertaking was furnished in this Court. The respondents have also not vacated the suit premises.

5. Contempt Petition was heard on 25th February, 2011 when notice was issued to respondents No.1 to 4 returnable after 4 weeks. By order dated 17th December, 2011, the petitioner was directed to ascertain the correct address of the unserved respondents. By order dated 18th January, 2012, this Court issued fresh notice to respondents No.2(a) to 2(d), 3(a) to 3(d) as well as respondent No.4. Office remark shows that notices issued to respondents No.1, 2(a) to 2(d), 3(a) to 3(d) as well as respondent No.4 are received unserved with remark “Not Found” “not residing at given address”.

6. The Petition was thereafter heard on 25th April, 2012, when two weeks time was granted to the petitioner for furnishing correct address of the respondents and for amending the title of the Contempt Petition. After amendment was carried out, notices were ordered to issue to the respondents returnable after 10 weeks. If fresh addresses were not given within two weeks, Contempt Petition was to stand dismissed for non prosecution without further reference to the Court. As the amendment was not carried out by the petitioner by furnishing correct address, by endorsement dated 8th May, 2015, the Registry noted that the Contempt Petition stood dismissed against the respondents.

7. Mr. Bhatia submitted that as basically correct addresses were not furnished, notices were not served on the respondents, hence none appeared on behalf of the respondents.

8. In view thereof and for the reasons stated the application, C.A is allowed in terms of prayer clauses (a) and (b). Order dated 25th April, 2012 is recalled. Contempt Petition No.69 of 2011 is restored to its original position. Mr. Bhatia states that as per his instructions, the respondents are residing at the address given in the cause title of the Civil Application. Order accordingly.

[R.G. KETKAR, J.]