

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

**CIVIL APPLICATION NO. 1965 OF 2019
IN
WRIT PETITION NO. 10205 OF 2014**

Rajendra Shankar Adhikari & Anr. ... **Applicants**
V/s.
The Amrapali Cooperative Hsg. Soc. & Ors. ... **Respondents**

Mr.Rohan Savant i/b. Chitnis and Company for Applicants.
Mr.Sunil Patel for Respondent No.1.
Ms.M.S. Bane, AGP for the State.

CORAM : A.S. GADKARI, J.

DATE : 5th September 2019.

PC. :

1] This is an application for restoration of the Writ Petition qua the respondent No.4, which was dismissed for not taking effective steps against the then unserved respondent No.4 in pursuance of Order dated 12th July 2017 passed by the Registrar, Judicial-I and for substituted service upon the respondent No.4 by way of publication of notice.

There is delay of 674 days in filing the present application.

2] Learned counsel for the applicants submitted that, the applicants/original petitioners took all possible efforts to serve the respondent No.4 on its last known address, however, the respondent No.4 could not be served. He further submitted that, even after passing of the impugned Order dated 12th July 2017, the petitioners took all possible efforts to serve the respondent No.4, however, the respondent No.4 could not be served till date. He further submitted that, the petition therefore stood dismissed in pursuance of the said conditional Order dated 12th July 2017 against the respondent No.4.

Learned counsel for the applicant further submitted that, in the intervening period, the petitioners were intending to settle the matter with the respondent No.1-Society and therefore, the aforestated delay has caused in filing the present application.

3] Learned counsel for the respondent No.1 submitted that, appropriate Orders in the interest of justice may be passed.

4] In view of the above and in the interest of justice, I am inclined to condone the delay of 674 days and to set-aside the impugned Order dated 12th July 2017 passed by the Registrar, Judicial-I, subject to condition that, the applicants shall pay costs of Rs.10,000/- to the High

Court Legal Services Committee, having their account, “High Court Legal Aid Fund” within a period of two weeks from today.

5] In view thereof, the application is allowed in terms of prayer Clause (a) and (b).

As far as publication notice by substituted service is concerned, the applicants are permitted to publish notice in two local newspapers i.e. one in English Daily Newspaper – Free Press Journal and the other in Marathi Daily Newspaper – Navshakti having circulation at Kalyan, District Thane. The said publication be effected within a period of eight weeks from today and after the said publication is effected, the applicants are directed to file an affidavit of service in that behalf.

6] It is made clear that, the payment of aforestated cost within stipulated period is condition precedent for condonation of delay and setting aside the impugned Order dated 12th July 2017.

7] Application is allowed in the aforesaid terms.

8] All the concerned to act on the basis of the authenticated copy of this Order.

[A.S. GADKARI, J.]