

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13009 OF 2018

Sambhaji Laxman Devkate & Ors.

..Petitioners

V/s.

Sanjay Madhusudan Kakade

..Respondent

Mr. Samir Kumbhakoni, Advocate for the Petitioners.

None present for the Respondent.

CORAM : N.J. JAMADAR, J.

DATED : 16th July, 2019.

P.C.

Heard the learned Counsel for the Petitioner.

2. By this Petition under Article 227 of the Constitution of India, the Petitioners have assailed the legality, propriety and correctness of the Order passed by the Civil Judge, Junior Division, Mohol in Miscellaneous Civil Application No.16/2018 on 04.06.2018, whereby delay of 11 days, in filing Petition for restoration of Regular Civil Suit No. 35/2010, came to be

allowed.

3. It is imperative to note that the Learned Civil Judge has recorded evidence of the Respondent – Applicant before exercising the discretion to condone the delay. The learned Civil Judge was persuaded to condone the delay as the delay was found to be neither inordinate nor intentional.

4. In the aforesaid backdrop, when the learned Civil Judge has leaned in favour of condonation of delay so as to advance the cause of substantial justice, no interference by this Court, in exercise of extraordinary jurisdiction under Article 277 of the Constitution of India, is warranted.

5. Hence, the Petition stands dismissed.

(N.J. JAMADAR, J.)