

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CIVIL APPLICATION (CAC) 37 OF 2019
IN
CIVIL REVISION APPLICATION STAMP 11852 OF 2019

Dr. Akshay s/o Navalkishor Lakhotia and others.

V/s

Dr. Aarti d/o Subhash Heda,

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri V.S. Kukday, counsel for applicants
Shri M.G.Sarda, counsel for non-applicant.

CORAM: ROHIT B. DEO, J.

DATE: 11.10.2019.

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Heard.

2. This is an application for condonation of delay of 55 days in filing civil revision application.
3. For reasons stated in the application, the delay is condoned. Application stands disposed of.

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Heard Shri V.S. Kukday, learned counsel for applicant
and Shri M.G.Sarda, learned counsel for the non-applicant.

2. The grievance of the applicant is two fold.
3. Shri V.S. Kukday, learned counsel for the applicant would submit that the trial Court clearly erred in holding

that the petitioner is exempted from payment of Court Fee in view of the Government resolution dated 01.10.1994 as amended by the Government notification dated 23.3.2000. Shri V.S. Kukday, learned counsel for the applicant would submit that the learned trial Court further erred in rejecting the application under Order 7 Rule 11 of the Code of Civil Procedure on the premise that the applicants are entitled to exemption from payment of Court fees. The stage of invoking Order 7 Rule 11 of the Code would arise only if the order is not complied. To this extent, the civil revision application is clearly not maintainable. However, Shri V.S. Kukday, learned counsel for the applicant is justified in submitting that the defendant is entitled to question the finding of the learned trial Court that the petitioner is not entitled to exemption. No revision would lie against such finding in view of the proviso to Section 115 of the Code of Civil Procedure.

4. In this view of the matter, the applicant is permitted to convert this revision into writ petition by amending the memo of revision appropriately.

JUDGE