

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

CIVIL APPLICATION NO.1897/2019 IN WRIT PETITION NO.2710/2017(Decided)

Siddheshwar Pandurang Joshi and anr.

Vs.

Divisional Joint Registrar of Money Lenders, Amravati Divn. and others.

Office notes Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri N.A.Gaikwad, Advocate for petitioner/non applicant.
Shri A.M.Balpande, Assistant Govt. Pleader for respondent nos.1 to 3.
Mrs. Pranita Choube, Advocate for respondent nos. 4 to 7/applicants.

CORAM : A.S.CHANDURKAR, J.

DATED : July 18, 2019.

By this application it is prayed that the order dated 25.04.2019 passed in Writ Petition No.2710/2017 be recalled on the ground that the respondent nos. 4 to 7 despite being served in the writ petition could not be represented by their counsel as their counsel failed to notice listing of the writ petition.

In the application, it is stated that the said respondents had approached the Legal Aid Sub Committee and accordingly a counsel was appointed to represent them. As the name of the learned counsel was not shown in the cause list, she could not remain present when the writ petition was heard. It is therefore prayed that the order in question be recalled and the writ petition be heard afresh.

The record of the writ petition indicates that the respondent nos. 4 to 7 were served in September, 2017. Thereafter the writ petition was listed on 29.03.2019. On 10.04.2019 it was noted that the respondent nos. 4 to 7 were duly served and for granting an opportunity, the petition was placed for consideration on 25.04.2019. On that date the order came to be passed. It is thus seen that sufficient time had elapsed

after service on the respondent nos. 4 to 7 but there was no representation on their behalf.

Be that as it may, I have heard the learned counsel for the applicants. It is submitted that reasons that are mentioned in the application for condonation of delay were not sufficient to condone that delay. It was only the appellant no.1 before the said Authority who was stated to be taking treatment and the appellant no.2 was available to file the proceedings. The documents indicating treatment being taken were of the period prior to passing of the order dated 29.10.2015. Similarly it is stated that the appellants were aware of passing of the impugned order as they got its knowledge in the proceedings under Section 138 of the Negotiable Instruments Act, 1881.

Shri N.A.Gaikwad, learned counsel appeared for the original petitioners and Shri A.M.Balpande, learned Assistant Government Pleader appeared for respondent nos. 1 to 3.

It is seen that after perusing the material on record and in the light of the fact that the appeal in question was filed within three days of receiving certified copy, the delay came to be condoned. Medical papers also included papers for the period of March and April 2016 indicating treatment being taken by the appellant no.1. Even after hearing the learned counsel for the respondent nos. 4 to 7, I am satisfied that the delay was liable to be condoned to enable adjudication of the appeal on merits.

In that view of the matter, I do not find it necessary to recall the order dated 25.04.2019. The application is therefore rejected.

JUDGE