

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

WRIT PETITION NO.775 OF 2019

(SMT. VENU BAPURAOJI BHOYAR (DEAD) THR. LRS. & OTH...VS.. DAUDAS BISANLALJI TAORI.)

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

Court's or Judge's orders

Shri Abhay Sambre, Advocate for Petitioners.

CORAM : Z.A.HAQ, J.

DATED : FEBRUARY 05, 2019.

The respondent/landlord had filed Regular Civil Suit No.111 of 2008 against the petitioners praying for decree for eviction, possession and other reliefs. By judgment dated 28th July 2005, the trial Court decreed the claim of the respondent/plaintiff and directed the defendants to handover the vacant possession of the suit property to the plaintiff. The trial Court further directed the defendants to pay Rs.2,562/- to the plaintiff along with interest. The defendants challenged the judgment and decree before the District Court by filing appeal. As there was delay of about 11 years and 1 month in filing the appeal, application under Section 5 of the Limitation Act was also filed. The learned District Judge has dismissed this application and consequently the appeal is rejected.

The explanation for inordinate delay of 11 years and 1 month in filing the appeal is that the advocate representing the defendants had not informed them about the dates of the civil suit and they got knowledge about the judgment and decree when the plaintiff filed execution proceedings after 11 years. The learned District Judge has recorded that the Miscellaneous Judicial Case i.e. the

application filed by the defendants praying for condonation of delay was also not attended and the defendants have not given any plausible reason for not attending the proceedings before the District Court. Apart from this, I find that there are no bonafides on the part of the petitioners in prosecuting the matter. On query, it is submitted by the learned advocate for the petitioners that the petitioners have not deposited the decretal amount before the District Court and are occupying the property of the respondent without paying occupation charges for last 11 years.

In the facts of the case, I see no reason to interfere with the impugned order, which in my view is very considered order.

The writ petition is **dismissed**. No costs.

JUDGE

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