

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

WRIT PETITION NO. 1570/2019

Madangopal M. Deshraj & ors.

..VS..

Kirankumar P. Deshraj & ors.

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

Court's or Judge's orders

Ms. D. Sapkal, Adv h/f Ms. V. Wasu, Adv for the petitioner(s)
Shri M. K. Deshraj, Advocate for the respondent no. 1

CORAM : Z.A.HAQ, J.

DATED : 10/06/2019

Heard.

The civil suit filed by the respondents praying for decree for possession of the house property was dismissed in default on 17/03/2009. The respondents – original plaintiffs filed an application after about 7 years and prayed for setting aside the order dated 17/03/2009 and for restoring the civil suit. This application is allowed by the impugned order.

The petitioners contend that the explanation given by the respondents to justify the inordinate delay of more than 7 years in filing the application for restoration of the civil suit cannot be accepted.

Undisputedly, the petitioners are in possession of the house property. The petitioners have not been able to point out as to what benefit the respondents have derived by not attending the matter diligently and not filing the

application praying for restoration of the civil suit immediately after 17/03/2009. After going through the impugned order, I find that the learned trial Judge has judiciously adverted to the relevant aspects. It cannot be said that the impugned order suffers from any illegality or error of jurisdiction which necessitates interference by this Court in the extra-ordinary jurisdiction.

The writ petition is **dismissed**. In the circumstances, the parties to bear their own costs.

Civil Application (W) No. 1158/2019

In view of the dismissal of the writ petition, this application praying for grant of interim order does not survive. It is **disposed** accordingly.

JUDGE

Ansari