

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

907 WRIT PETITION NO.3881 OF 2020

MOHD MUKHTAR AHMED MOHD ISHAQ
VERSUS
AREF MOHAMMAD KHAN AND ANOTHER

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Advocate for Petitioner : Shri Kalani P.N. h/f Shri Kshirsagar S.M.

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CORAM : RAVINDRA V. GHUGE, J.

Dated: March 11, 2020

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PER COURT :-

1. The petitioner / plaintiff in RCS No.813 of 2017, is aggrieved by the order dated 27.8.2019, passed by the trial Court, by which, Civil Misc. Application No.961 of 2018, preferred by the respondents seeking condonation of delay of 77 days for setting aside the ex-parte decree dated 18.5.2018, has been allowed, with costs of Rs.500/-.

2. The learned Advocate for the petitioner has strenuously criticized the impugned order by relying on the nine grounds set out in the memo. He submits that the original defendants are negligent and allowed the suit to proceed ex-parte. The law should not assist a sleeping litigant. Meager costs have been awarded.

3. I find from the record that RCS No.813 of 2017 was filed on 30.10.2017 and was decreed in less than seven months on 8.5.2018.

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2- WRIT PETITION NO.3881 OF 2020

Perpetual injunction with regard to the immovable properties was sought by the plaintiffs.

4. Considering the law laid down by the Honourable Apex Court in Collector, Land Acquisition Anantnag and another Vs. Mst. Katiji and others [(1987) 2 SCC 107], and Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy and others [(2013) 12 SCC 649], when the delay does not appear to be deliberate or inordinate, I do not find that the impugned order, condoning delay of 77 days, could be termed as being perverse or erroneous and more so, when the suit has been decreed ex-parte within seven months.

5. This petition, being devoid of merits is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

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