

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL APPLICATION NO.10454 OF 2019 IN RC/907/2019 IN FAST/914/2018

PRABHAKAR DATTA SHINDE AND ORS
VERSUS
M.S.E.D.C, LTD., THR EX. ENGINEER, M.I.D.C, SUB STATION, NANDED
AND ORS

Advocate for Applicants : Mr. Vaibhav B. Dhage
Advocate for Respondents No.1 and 2: Mr. Dhananjay Deshpande
(Absent)

CORAM : K.K. SONAWANE, J.

DATED : 14th FEBRUARY, 2020.

ORDER :-

Heard learned counsel for the applicants. When the matter is called out, no one else appeared on behalf of respondents No.1 and 2. Perused the application and impugned order dated 12-07-2019.

2. Present application is filed seeking restoration of original proceedings bearing FAST/914/2018 with CA/1816/2018 in FAST/914/2018. It has been contended that the applicants were required to take steps for service of notice to the unserved respondents No.3 and 4. This Court under Order dated 12th July, 2019, granted time to take steps up-till 26th July, 2019, subject to condition that in case no steps are taken, the matter would be dismissed for want of prosecution. According to applicants, inadvertently steps could not be taken against deceased respondent No.4, as well as respondent No.3, who was shown not residing on the given address. Learned counsel for the applicants undertakes to take steps against both the respondents No.3 and 4 within two weeks in case proceedings are restored at it's original stage.

3. In view of nature of the subject matter and reasons mentioned in the application, I find that the reasonable opportunity is required to be given to the applicants-original claimants to pursue the matter before the Appellate Forum for redressal. Hence, the impugned order deserves to be set aside and quashed.

4. Accordingly, the Civil Application stands allowed in terms of prayer clause 'B'. The impugned order passed by this Court dated 12-07-2019, is hereby recalled. The proceedings bearing FAST/914/2018 with CA/1816/2018 in FAST/914/2018 be restored at its original stage. After restoration of the proceeding, the applicants to take steps against respondents No.3 and 4 in the matter within a period of two weeks, failure to which, the present order shall stand vacated automatically without further reference to this Court and application for condonation of delay be treated as dismissed once again. There would not be any further extension for taking steps at the instance of applicants. In case, steps are taken, list the present proceedings for further process on 13th March, 2020.

5. The Civil Application stand disposed of in above terms.

Sd./-

[K. K. SONAWANE]
JUDGE