

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.238 OF 2019
WITH
REVIEW PETITION (ST.) NO.36130 OF 2013
IN
WRIT PETITION NO.4679 OF 2012

Tatyasaheb Malkappa Amle and Ors. .. Applicant

vs.

The State of Maharashtra and Ors. .. Respondents

Mr.Sukand R. Kulkarni for the Applicant

Dr.Kirti Kulkarni, A.G.P. for the State

**CORAM: K.K.TATED &
SARANG V. KOTWAL, JJ.
DATED : JANUARY 22, 2020**

P.C.

1 Heard.

2 By this Civil Application, Applicant is seeking condonation of 292 days delay in filing the Review Petition to review the order dated 07.03.2013 passed by this court (Coram: A.S.Oka & K.K. Tated, JJ.) in Writ Petition No.4679 of 2012.

3 The main contention of the learned counsel for the

Applicant in the present proceeding is that counsel appearing on behalf of him before this court on 07.03.2013 made incorrect statement that they filed the Civil Suit challenging the issue involved in the present proceeding. He submits that earlier, Petitioner filed Writ Petition No.6632 of 2011 which was withdrawn by them. Thereafter, they filed the Writ Petition No.4679 of 2012 for the same cause of action with following averments in paragraph 17 which reads thus:

“17. The Petitioners state that earlier the Petitioners have filed Writ Petition No.6632 of 2011 for the same relief but for want of copies of Notifications issued u/sec. 4 and section 6 of the Land Acquisition Act, the same was allowed to be withdrawn with liberty to file afresh by its Judgment and Order dated 22.09.2011 by this Hon'ble Court (Coram: D.K. Deshmukh & A.V. Mohta, JJ.), the copy of the same is annexed hereto and marked as Exhibit 'H'.”

4 The learned counsel for the Applicant submits that as the statement was made by the counsel before this court without any instruction, Applicant filed the present Review Petition to review the order dated 07.03.2013.

5 The learned counsel for the Applicant relies on paragraph 4 and 5 of the Civil Application in support of that contention. He submits that in the interest of Justice, this Hon'ble Court be pleased to condone the delay and matter be heard on its own merits.

6 When this court noticed that the Applicant withdrew the Writ Petition No.6632 of 2011 without any liberty and Applicant made incorrect statement in Writ Petition No.4679 of 2012 in paragraph 17, and also in paragraph 5 of the present Civil Application, the learned counsel for the Applicant submits that, Applicant may be permitted to withdraw the Civil Application unconditionally. To that effect, he has given in writing. Same is taken on record and marked 'X' for identification. Same is accepted.

7 Hence, following order is passed:

a. Civil Application stands dismissed as withdrawn unconditionally.

b. In view of withdrawal of Application for condonation of delay, nothing survives in the Review Petition (ST) No.36130 of 2013. Hence, registration of Review Petition stands rejected.

(SARANG V. KOTWAL, J.)

(K.K.TATED, J.)