

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

WRIT PETITION NO. 6650 OF 2019

Sk. Mehboob s/o Sk. Abbas, thr. Power of Attorney Holder
Shaikh Anees Shaikh Mehboob

vs.

Government of India, thr. Secretary, Post and Telegraph Department,
New Delhi and another

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

Court's or Judge's orders

CORAM : MANISH PITALE J.

DATED : 14/01/2020

This writ petition was listed for hearing before this Court on 22/10/2019, when none appeared on behalf of the petitioner, despite the petition being called out for hearing twice. According to the aforesaid order dated 22/10/2019, this petition was directed to be listed after Diwali Vacation. Today, when the writ petition was called out for hearing again, none has appeared on behalf of the petitioner.

2. A perusal of the writ petition and the accompanying documents shows that the Court below has rejected application for restoration along with application for condonation of delay in approaching the Court below.

3. The facts leading to filing of the present writ

petition are that the petitioner had initiated proceeding for eviction of the respondents from the suit property. In the first instance the Trial Court decreed the suit in favour of the petitioner and directed the respondents to handover suit property and to pay certain charges to the petitioner. The decree was put to execution by the petitioner and the respondents were directed to pay specific amount towards mense profit along with interest.

4. The respondent challenging the said order before the Appellate Court. The appeal was allowed and the matter was remanded to the Court below for fresh consideration. Upon such remand, the petitioner failed to pursue the matter before the Court below and on 09/01/2015, since the petitioner repeatedly failed to appear before the Court below, the proceeding was dismissed in default. Thereafter, an application for restoration along with application for condonation of delay was filed on behalf of the petitioner.

5. By the impugned order dated 18/01/2019, the application for condonation of delay was rejected and consequently the application for restoration was also rejected. A perusal of the order dated 18/01/2019, shows that the Court below found on appreciation of the documentary and oral evidence on record that the said application was being pursued by son of the original plaintiff and he conceded in his evidence that he had no document granting him any right to represent interest of

the original plaintiff. It was found by the Court below that the son did not hold any power of attorney and he had no locus standi, much less any personal knowledge of the facts of the case, which was fatal to the said proceeding initiated on behalf of the petitioner. On this basis, the Court below rejected the application for condonation of delay and consequently the application for restoration.

6. Upon perusal of the writ petition and the accompanying documents as well as the impugned order, this Court finds that there is no merit in the writ petition and accordingly, it is dismissed. No order as to costs.

JUDGE