

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

937 WRIT PETITION NO.13544 OF 2021

**KISHAN GANA MASKE AND ANOTHER
VERSUS
TUKARAM PUNDLIK KADAM AND OTHERS**

...

Advocate for Petitioners : Mrs. Priyendra G. Sontakke (Patil).

CORAM : MANGESH S. PATIL, J.

DATE : 07.12.2021.

PER COURT :

Heard.

2. The petitioners are the original defendants who suffered a decree for perpetual injunction in a suit filed by the respondents. Since there was a delay they chose to prefer an appeal along with an application for condonation of delay. By passing a pursis (Exh. 9) they sought to withdraw that application for condonation of delay on the ground that the parties had amicably settled the dispute out side the Court. Based on such a pursis, after verifying the fact in presence of the petitioners and their learned advocate, leave was granted and by passing a separate order on the application (Exh. 1) the matter was disposed of as withdrawn.

3. The petitioners are now aggrieved by the fact that according to them, the terms and conditions which were settled between the parties were not honoured by the respondents.

4. Admittedly, the terms of settlement were not produced before the appellate court nor any attempt was made to get those certified by the appellate court. The petitioners unilaterally chose to withdraw that application and are now seeking enforcement of the terms of the settlement.

Besides, these were the happenings of the year 2015. It is too late in the delay now to permit the petitioners to put up any grievance irrespective of the awkward situation they are in. It is after lapse of more than five and half years that now they are seeking to quash and set aside the order whereby their application was simply allowed to be withdrawn.

5. There is no merit in the Writ Petition. It is dismissed in limine.

(MANGESH S. PATIL, J.)

mkd/-