

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

**923 CIVIL APPLICATION NO.2811 OF 2016
IN WP/2597/1992 WITH CA/3932/2017 IN CA/2811/2016**

**LATE SYED AHMED MOHIUDDIN GHORI SULTAN
MOHINUDDIN THROUGH LRS SYED GHOUSE MOHINUDDIN
SALEEM
VERSUS**

THE STATE OF MAHARASHTRA AND OTHERS

Mr. M.M. Bokharikar, Advocate for the applicant
Mr. G. O. Wattamwar, AGP for the respondent/State

CORAM : N. J. JAMADAR, J.

DATE : 09-04-2021

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. The applicant has preferred these applications for condonation of delay in seeking setting aside, and for setting aside, the order dated 08-10-2015 whereby the writ petition No. 2597 of 1992 came to be dismissed for non-compliance of the order dated 23-04-2015 whereby the adjournment was granted subject to payment of costs of Rs.2000/- to the High Court Bar Association Library within a period of two weeks thereof.

2. In the order dated 08-10-2015 it was noted that the office had reported that the applicant had not produced receipt of payment of costs of Rs.2000/- as directed in the order dated 23-04-2015. Hence, the court was constrained to dismiss the writ petition

for non-compliance of the order dated 23-04-2015.

3. Mr. Bokharikar, learned counsel for the applicant submits that the order dated 23-04-2015 was, in fact, complied with by the applicant. However, inadvertently receipt came to be annexed to record in the another petition and, therefore, the instant petition came to be dismissed, urged Mr. Bokharikar. A copy of the receipt dated 06-05-2015 is annexed to these applications in support of the claim that the order was complied with.

4. From the perusal of the material on record, especially copy of receipt dated 06-05-2015 (Exh.A), it becomes evident that the petitioner-applicant had complied with the order passed by the court on 23-04-2015. However, the said fact could not be brought to the notice of the court by placing on record the said receipt and, thus, the petition came to be dismissed.

5. In the circumstances, since there was, in fact, due compliance with the order passed by this court on 23-04-2015 dictate of justice warrants setting aside of order of dismissal of the petition for non-compliance of the direction to pay the costs.

6. Thus, for the reasons assigned in the application for condonation of delay and in the application for setting aside the dismissal order and to advance the cause of substantive justice, the civil application No. 3932 of 2017, for condonation of delay, and

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civil application No. 2811 of 2016, for setting aside the order of dismissal dated 08-10-2015, stand allowed.

7. The delay stands condoned.

8. The order passed by this court on 08-10-2015 dismissing the petition No.2597 of 1992 stands set aside.

9. The writ petition No. 2597 of 1992 stands restored to its original position.

10. The civil applications stand disposed of.

11. The writ petition No. 2597 of 1992 be listed as per its turn.

[N. J. JAMADAR, J.]

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