

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CIVIL WRIT PETITION NO. 7896 OF 2021**

Khemchand Khushaldas Rajpal & Anr. ... Petitioners

V/s.

Satish Jagannath Sharma & Anr. ... Respondents

Mr.Amit Dubey a/w. Mr.Satyapal Thosar i/b. Mr.Dharmesh Joshi for
Petitioners.

CORAM : A.S. GADKARI, J.

DATE : 23rd November 2021.

PC. :

1. By the present Petition, the Petitioners, Original Respondents, have impugned Judgment and Order dated 20th October 2021 passed in Marji Application No.20 of 2020 in Appeal (Stamp) No. 37 of 2020, thereby the Appellate Bench of Small Causes Court, Mumbai has condoned delay of 59 days in filing the said Appeal by imposing a cost of Rs.3,000/- upon the Respondent No.1 & 2 and has directed the parties herein to maintain status quo, as was ordered by its Order dated 30th November 2021.

2. Heard Mr.Dubey, learned counsel for the Petitioners. Perused record annex to Petition.

3. At the outset, it is to be noted here that, the Petitioners/Original Respondents in the said Appeal, have impugned an Order thereby delay of 59

days has been condoned simplicitor by the Appellate Bench in the interest of justice and permitted the Respondent No.1 & 2 to file appeal against the impugned decree passed in RAE Suit No. 1068/1696 of 2003. The Appellate Court after taking into consideration various circumstances and in the interest of justice has condoned the said delay.

Perusal of record clearly indicate that, no ground at all is made out for this Court to interfere with the impugned Order dated 20th October 2021 by exercising jurisdiction under Section 227 of the Constitution of India.

4. Petition is accordingly dismissed in limine.

5. There is another facet to the present Petition. By an Order dated 16th January 2020 passed by way of interim Order below Exh.9. The Appellate Bench had directed the parties herein to maintain status-quo with respect to the suit premises existing on the said day till the next date. The language used by the Appellate Court is plain and simple.

Despite the said fact, learned counsel for the Petitioner tried to contend before this Court that, due to the said status-quo Order various applications preferred by his client are getting stuck up from hearing before the Appellate Bench. I find that, there is no substance in the said submission, as the Appellate Court has directed to maintain status-quo with respect to the suit premises only and not otherwise.

6. Record indicates that, Petitioner No.2 is aged about 80 years and Petitioner No.1 is aged about 75 years. In view thereof, the Appellate Bench of the Small Causes Court at Mumbai seized of Appeal (Stamp) No. 37 of 2020 is hereby requested to hear the said Appeal expeditiously and to make an endeavour to conclude the hearing of the same within a period of one year from the date of receipt of the present Order.

7. Petition is dismissed in the aforesaid terms.

[A.S. GADKARI, J.]

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