

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CIVIL APPLICATION NO. 2871 OF 2022
WITH WP/9632/2019

GULAM MUSTAFA KHAN GULAM DASTAGIR KHAN
VERSUS
SALEHA BEGUM AKHTAR KHAN AND OTHERS

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Advocate for Applicant : Mr. A.S. Gandhi h/f. Mr. P.S. Mehta

CORAM : PRITHVIRAJ K. CHAVAN, J.
DATE : 04.03.2022

PC. :

1. This is an application for recalling the order passed by this Court on 27.09.2021, by which, the petitioner was directed to take steps to serve respondent No. 2 – B, within three weeks, failing which, it was ordered that Writ Petition shall stand dismissed automatically.
2. Since the petitioner has not taken steps to serve respondent No. 2 – B as above, the petition stood dismissed which the petitioner now wants to restore. A delay of 81 days has occurred in filing the application for recalling the order.
3. According to the counsel, due to the Covid – 19 pandemic across the country and the subsequent lockdown thereafter, he could not search the address of respondent No. 2 – B. It is *inter alia* submitted that the applicant is 64 years old and therefore, restrictions were imposed upon his

movements in the Covid – 19 pandemic situation. He submits that the respondent No. 2 – B is deliberately avoiding the service and, therefore, it is prayed for serving the respondent No. 2 – B by publication in the newspaper.

4. I have considered the over all submissions made by the learned counsel and in view of the fact that due to Covid-19 the 64 years old applicant could not find out the address of respondent No. 2 – B. The delay, therefore, stands condoned and the order dated 27.09.2021 stands recalled.

5. Civil Application is allowed and disposed of.

6. The Writ Petition is restored to its original number.

7. Issue notice to the respondent No. 2 – B. In addition to the Courts notice, the learned counsel for the petitioner is permitted to serve the respondent No. 2 – B with private notice and shall file an affidavit of service before the next date. *Humdast* allowed.

8. List the Writ Petition on 01.04.2022.

[PRITHVIRAJ K. CHAVAN, J.]