

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

WRIT PETITION NO.10884 OF 2019

LAXMIKANT KESHAV FIRKE AND ANOTHER  
VERSUS  
PARSHURAM NAMDEO ZAMBRE AND OTHERS

...  
Advocate for the Petitioners : Shri Shaikh Mohammad Naseer A.  
None for the Respondents.

...

**CORAM: SMT. BHARATI H. DANGRE, J.**

**DATE :- 15<sup>th</sup> February, 2022**

**Per Court:**

1. Heard the learned counsel for the petitioners. None for the respondents, though the notice of final disposal came to be issued and served upon respondent Nos.1 to 4. Advocates Mr.Y.H. Jadhav and Mr.Girish Nagori filed the Vakalatnama for the respondents, none represent them when the matter is called out.
2. The petition is filed being aggrieved by the order dated 18.01.2019 passed by the Adhoc District Judge, Bhusawal, below exhibit-20 in Civil Misc. Application No.14/2016.
3. Sequence of events leading to the present petition would reveal that RCS No.2/2019 came to be decreed against the present petitioners on 27.01.2015, which constrained them to file the civil appeal

along with Misc. Civil Application No.57/2015 praying for condonation of delay. On 19.03.2016, this Misc. Civil Application was dismissed in default, which prompted the petitioners to move another application vide Misc. Civil Application No.14/2016 seeking restoration of MCA No.57/2015 by recalling its dismissal order. The learned Judge, on 20.12.2018, allowed the application subject to costs of Rs.10,000/- payable to the respondents within 15 days and thus, Misc. Civil Application No.57/2015 came to be restored on payment of costs.

Once again there was default committed by the petitioners since they failed to deposit costs of Rs.10,000/- within a period of 15 days as directed by the learned Judge while restoring the application. Therefore, they filed the application below exhibit 20 in Misc. Civil Application No.14/2016 seeking time to deposit the amount since the period of 15 days, during which the amount was to be deposited, expired. This application came to be rejected vide the impugned order dated 18.01.2019 by recording that there is no substance in the application and the reasons cited therein do not justify the permission to deposit the amount. The learned Judge, in the impugned order, has recorded that the reason projected that the certified copy of the order was received on 10.01.2019 carries no weightage since there was no need of certified copy for depositing the amount. Another reason projected of winter vacation was not found to be justifiable ground.

4. On hearing the learned counsel for the petitioners and in the absence of the learned counsel for the respondents, I am convinced to grant indulgence to the petitioners with further costs of Rs.10,000/- being levied upon them, to be paid to the respondents. Costs of Rs.10,000/- as directed to be paid to the respondents by order dated 20.12.2018, shall now be paid to the non-applicants/ respondents in Civil Misc. Application No.14/2016 with topping of Rs.10,000/- i.e. total costs to be paid is Rs.20,000/-, which shall be made over to the respondents/ non applicants in MCA No.14/2016, within a period of four weeks from today. Subject to the above stipulation, the impugned order is quashed and set aside and Civil Misc. Application No.57/2015 shall stand restored to the file of the learned Judge for it's adjudication on merits. This Writ Petition is, accordingly, allowed.

*kps*

( SMT. BHARATI H. DANGRE, J. )