

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

926 CIVIL APPLICATION NO. 12632 OF 2022
IN FAST/31571/2018

SHAIKH BASHIRODDIN ALLAUDDIN SHAIKH
VERSUS
VYANKATCHALAM SUBRAMANIAM CHINTTAM AND ORS

...
Advocate for Applicant : Mr. M.M. Bhokarikar
Advocate for respondent No.3 : Mr. A. S. Usmanpurkar
....

**CORAM : S. G. DIGE, J.
DATE : 20.09.2022**

PER COURT :-

Heard learned counsel for the applicant and learned
counsel for respondent No.3.

2. Learned counsel for the applicant submits that this Court by the order dated 5th July 2019 had directed the applicant to take steps against unserved respondent Nos. 1 and 2 within stipulated period, but applicant could not take steps within stipulated period. Appeal against respondent Nos. 1 and 2 is dismissed. Due to personal difficulty of learned counsel on record steps were not taken within stipulated period and thereafter, covid pandemic started. Hence, application could not be filed within stipulated period. Hence requested to allow the application.

3. Learned counsel for respondent No.3 submits that delay application filed by the applicant was dismissed against respondent Nos. 1 and 2. The applicant did not take steps within stipulated period nor filed application. Hence applicant is not entitled for the interest for the period of 1076 days. Hence requested to pass appropriate order.

4. I have heard both the learned counsel. Learned counsel for the applicant could not take steps against respondent Nos. 1 and 2 within stipulated period. Applicant Nos. 1 and 2 are driver and owner of the offending vehicle. Hence their presence is required before the Court. Hence I pass the following order.

ORDER

- (i) The application is allowed.
- (ii) The order dated 5th July, 2019 passed by this Court is recalled.
- (iii) Applicant to take steps against respondent Nos. 1 and 2 within four weeks.
- (iv) Applicant is not entitled for the interest and statutory benefit for the period of 1076 days and shall file undertaking in that regard.

Civil Application is disposed of.

**(S.G. DIGE,)
JUDGE**