

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.542 OF 2019

IN

WRIT PETITION NO.7073 OF 2010

Nayankumar Nishikant Chopade & Ors.

.... Applicants

Versus

The State of Maharashtra & Ors.

.... Respondents

Mr. Dhairyasheel Sutar for the Applicants.

Mr. Suresh M. Kamble for Respondent Nos.4, 8 to 12.

Mr. C.D. Mali, AGP for State.

CORAM : VALMIKI SA MENEZES, J.

DATE : 17th NOVEMBER, 2022

P.C. :

1. This is an application for recalling of order dated 14.07.2016 passed in Writ Petition No.7073/2010, which was dismissed for non-prosecution on account of the fact that the petitioners had not filed an affidavit of service in the matter despite being granted sufficient opportunities to do so.

2. Learned counsel for Respondent Nos.4 and 8 to 12 vehemently opposed to recall the said order on the ground that the petitioners had not filed an affidavit of service despite sufficient opportunities granted by this Court to the petitioners for taking necessary steps in completing the service in the matter.

3. Having considered the objections of learned counsel for Respondent Nos.4 and 8 to 12 and the averments made in the application, more particularly, the statement made in Para 5 thereof, I consider the reasons stated therein as genuine and accordingly recall the order dated 14.07.2016.

4. Needless to state that the petitioners have been given sufficient opportunities for taking steps for service in the matter. In the normal course, it would be a fit case to impose cost upon the petitioners for recalling the said order. However, considering the statements made by the petitioners in Para 5 of this application, the application stands allowed without imposing any cost at this moment.

5. The petitioners shall take immediate steps to serve the unserved respondents within a period of two weeks from today. In addition to legal modes of service, the petitioners may also serve the unserved respondents through RPAD/private notice and file affidavit-of-service before the returnable date.

6. It is made clear that, if the timeline set down in this order is not adhered to and steps are not taken by the petitioners expeditiously, the petition shall stand dismissed accordingly.

7. Place Writ Petition No.7073 for admission on 2nd January, 2023.

8. Civil Application is disposed of in the above terms.

[VALMIKI SA MENEZES, J.]