

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 1723 OF 2022
IN
CIVIL WRIT PETITION NO. 6233 OF 2011**

Rasesh Bipin Jain & Anr. ... Applicants/Petitioners
V/s.
Ajay Manaharlal Shah & Anr. ... Respondents

Mr.A.M. Saraogi a/w. Daksha A. Parmar i/b. Mr.Prajot H. Jaggi for
Applicants/Petitioners.

**CORAM : A.S. GADKARI, J.
DATE : 1st April 2022.**

PC. :

1. This is an application for restoration of Writ Petition No. 6233 of 2011, which was dismissed for want of prosecution by Order dated 19th September 2019.

There is a delay of 174 days in preferring the present application.

2. Mr.Saraogi, learned counsel for the Applicants/Original Petitioners submitted that, in Order dated 22nd November 2011, this Court has observed that the Respondent No.2 is not a necessary party to the present Petition. He on instructions submitted that, in pursuance of Order dated 22nd November 2011, the Applicants have served Respondent No.1 and an affidavit of service dated 31st March 2022 has been filed by the concerned Advocate. Said affidavit is taken on record and marked 'X' for identification.

He further submitted that, even otherwise on 19th September 2019, none had appeared for the Respondents. Despite service none appears for Respondent No.1.

3. Perusal of Application would indicate that, sufficient cause is made out for condonation of delay and restoration of application.

4. In view thereof and for the reasons stated in the Application, the Application is allowed in terms of prayer Clause (a).

[A.S. GADKARI, J.]

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