

Pooja K.

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO. 9 OF 2023

Arun Vilas Ghuge and Ors.	... Applicants
<i>Versus</i>	
Dinkar Gunderao Ghugle	... Respondent

...
Mr. K.S. Patil h/f. Mr. S.S. Choudhary – Advocate for Applicants
....

CORAM : GAURI GODSE, J.
DATE : 1st February, 2023

PER COURT :

1. This Civil Revision Application is filed by the original defendant for challenging the order passed by the trial court by which the application for condonation of delay in filing application for setting aside order of dismissal of suit for default is allowed.
2. The Regular Civil Suit No. 382 of 2008 was dismissed for default on 6th September, 2011.
3. It is the case of plaintiff that he was undergoing some treatment for eye and was hospitalized. After the eye treatment, he lost his

wife and thereafter also lost his son. The plaintiff has led evidence in support of the application for condonation of delay. The trial court considered reasons given by the plaintiff in his application and supporting oral evidence. The death certificates of wife as well as his son are also placed on record. The trial court considered all these aspects, as well as the old age of the plaintiff and by exercising discretionary powers has condoned delay caused in filing application for restoration of his suit.

4. Learned counsel appearing for the applicants submit that the reasons given by the plaintiff are not satisfactory. He submits that if the plaintiff was able to take steps for his treatment from various hospitals, it was also possible for him to attend the court and file the application.
5. The perusal of the impugned order shows that, the present applicants have also cross examined the plaintiff as well as the witness examined by the plaintiff. After considering all these aspects the trial court allowed the application by imposing costs of Rs.5,000/- to be paid to the applicants.

6. Learned counsel for the applicants submit that, after condonation of delay the suit is also resotred to file. He further states that thereafter applicants have also filed written statement. Considering the aforesaid facts and circumstances no case is made out to exercise the limited jurisdiction under Section 115 of the Code of Civil Procedure. There is no reason to interfere with the impugned order. The approach of the learned Trial Judge is just fair and reasonable. For the reasons stated above, the Civil Revision Application is dismissed.

[GAURI GODSE]
JUDGE