

Shivgan

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.13082 OF 2022

Ganpati Panchayatan Sansthan ...Petitioner
Versus
Sangli Nagar Parishad, Sangli ...Respondent

Mr Shrinivas S Patwardhan, i/b Mrinal Ashwin Shelar, for the
Petitioner.
Mr VV Tapkir, with Amey Sawant, Vikram N Walawalkar, for the
Respondent-Corporation.

CORAM: Neela Gokhale, J.
DATED: 4th May 2023

PC:-

1. Mr Shrinivas Patwardhan learned counsel appears for the Petitioner-Trust. The trust has assailed the order dated 30th April 2022 whereby the application seeking condonation of delay in filing restoration application to restore the Special Civil Suit No.571 of 1996 was rejected by the learned Civil Judge, Senior Division at Sangli.
2. The learned Civil Judge was pleased to hold that there was no cogent reason to justify condonation of delay in making the restoration application.

3. The reasons for delay in making the application as set out by the Trust are that the counsel engaged by the Trust who was appearing in the civil suit had failed to inform the trustees regarding dismissal of the suit in default and also failed to appear before the Court to prosecute the civil suit. It was in these circumstances that the Trust was unable to make the restoration application within limitation period and because of this there was delay in making delay condonation application as well.

4. Heard both sides. Mr Viren Tapkir the learned counsel appears for the Respondent-Corporation and resists the Petition.

5. The suit has been filed for recovery of possession which is of the Petitioner-Trust that the possession of the suit property has not been handed over by the Respondent-Corporation to the Petitioner-Trust as required by law and hence the Trust was compelled to file the civil suit.

6. If the suit is not restored to its original file and decided on merits, the Petitioner-Trust is likely to suffer irreparable damage and will be deprived of the enjoyment of its property, in case, the Trust succeeds. In these circumstances, the delay of 37 days in making the restoration application is condoned. The order dated 30th April 2022 passed by the learned Civil Judge, Senior Division, Sangli is quashed and set aside. Restoration application be restored to its original file for hearing on merits subject to the Petitioner-Trust depositing costs of Rs.15,000/- in the Sangli District Legal Aid

Services within a period of two weeks from the date of re-opening of the Civil Court at Sangli.

(Neela Gokhale, J)