

SA Pathan

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

WRIT PETITION NO.10297 OF 2015

Sakhubai Chandar Patil & Ors ... Petitioners
V/s.
Shankar Eknath Patil ... Respondent

Mr. Vishwanath B. Rajure, for petitioners.

Ms. Pallavi A Karanjkar h/f Mr. Sandeep S. Koregave,
for Sole respondent.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 17, 2023

P.C.:

1. Challenge in this writ petition is to the order dated 30 January 2010 dismissing plaintiff's suit for default. It appears that the petitioner filed Regular Civil Suit No.89 of 2002 for redemption of mortgage.
2. The petitioner on 8 April 2010 filed an application for restoration of suit.
3. The Trial Court rejected the application on the ground that the application for condonation of delay is not filed.
4. The Appellate Court dismissed Miscellaneous Civil Appeal No.91 of 2013 on the ground that sufficient cause is not shown.
5. Considering the nature of suit (redemption of mortgage),

and the cause shown in paragraph 1 that the Advocate for the plaintiff died on 5 November 2009 and the suit was dismissed on 30 January 2010, in my opinion, the petitioner has made out a sufficient cause for restoration of suit. Hence, following order:

a) The impugned orders passed by the Courts below dated 30 January 2010 and 24 July 2015 in Miscellaneous Civil Application No.91 of 2013 passed by the District Judge, 3.. are quashed and set aside.

b) Regular Civil Suit No.89 of 2003 is restored to the file of Trial Court.

6. Considering the date of filing of suit, the Trial Court shall decide the suit as expeditiously as possible.

(AMIT BORKAR, J.)