

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 10423 OF 2022
IN
CIVIL REVISION APPLICATION NO. 765 OF 2014**

Ellora Construction Co.

....Applicants/
Appellants

Versus

Cawasji J. Batlibhoy (since deceased) & ors.

....Respondents

Mr. Akshay Doctor along with Mr. Huzan Bhumgara i/b. Desai Diwanji, , Advocates for the Applicants/Appellants.

Mr. Tushar V. Dahibawkar i/b. M/s. Dahibawkar & Co.,, Advocates for the Respondent Nos.8 to 10.

CORAM : S. G. DIGE, J.

DATE : 23rd FEBRUARY 2023.

P.C. :

1. Heard learned counsel for the applicants and learned counsel for respondent Nos.8 to 10.

2. Learned counsel for the applicants submits that the applicant was contesting the civil revision application. He had filed an application for bringing legal heirs of respondent No.8 on record. Thereafter, Registrar (Judicial II), by order dated 30th January 2017, directed the applicants to remove office objections, failing which, the

civil revision application shall stand dismissed without further reference to the Court. Learned counsel for the applicants could not notice the said order, hence, the application is dismissed. Learned counsel further submits that another civil revision application is filed by the respondents, which is pending and yet is not disposed of. If this civil revision application is not restored, prejudice would be caused to the applicants as the suit property belongs to the applicants and respondents are staying in the said property. Hence, requested to allow the application.

3. Learned counsel for respondent Nos.8 to 10 objected to allow the application on the ground that sufficient chance was given to the applicants to remove the office objections, the applicants failed to remove the office objections, hence, the order passed passed the Registrar (Judicial II) is legal and valid.

4. I have heard both learned counsel. It appears from the record that the applicants are contesting the civil revision application since 2014. The matter was in progress but some office objections were there, hence, learned Registrar (Judicial II) passed the order dated 30th January 2017 and 10th March 2017 directing the

applicants to remove the office objections within four weeks but the applicant could not remove the office objections with stipulated time. Hence, the application is dismissed.

5. The applicants were contesting civil revision application. The applicants have challenged the order passed by the Small Causes Court at Mumbai. The applicant is the landlord of the suit property. In my view, if the application is not restored, it would cause great injustice to the applicants. Moreover, one more civil revision application is filed by the respondents, which is pending before the Court. If the present civil revision application is restored, both civil revision applications can be decided together. If heavy cost is imposed on the applicants, it would meet the ends of justice. I, therefore, pass the following order:

1. The application is allowed.
2. The orders dated 30th January 2017 and 10th March 2017 passed by learned Registrar (Judicial II) are quashed and set-aside. The civil revision application is restored.

3. The applicants to remove the office objections within four weeks from today.
4. The applicants to pay an amount of Rs.25,000/- towards cost to Tata Memorial Hospital, Mumbai.

The details of which are as under :

Bank name	Central Bank of India
Branch	Tata Memorial Hospital
Address	Dr. Ernest Borges Road, Parel, Mumbai 400 012
Bank account No.	1002449683
IFSC Code	CBIN0284241
MICR Code	400016043

The application stands disposed of.

(S. G. DIGE, J.)