

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 379 OF 2019

Office Notes, Office Memoranda of Coram, appearance, Court's orders or directions and Registrar's orders	Court's or Judge's orders
None present. CORAM : H. M. BHOSALE REGISTRAR (JUDL-I) Date : 01/03/2023 This Writ Petition is filed in the year 2019. The Hon'ble Court by order dated 14/02/2020 has been pleased to direct the Trial Court to defer the hearing of the suit beyond 13/03/2020. The Hon'ble Court vide order dated 13/03/2020 is pleased to issue notice to the Respondents. The Hon'ble Court further directed that in addition to Court notice, the Petitioners are permitted to serve the Respondents by way of private notice and to file an affidavit of service after the Respondents are duly served. The service on behalf of the Respondent No. 1 is waived by the learned Advocate Mr. Naik. The Hon'ble Court further extended the ad-interim relief. It is pertinent to note that after obtaining ad-interim relief, the Petitioners have not supplied spare copies to serve the un-served Respondents. They have also not filed affidavit of service as directed by the Hon'ble Court. The Writ Petition was listed on the board of Registrar (Judicial) on three occasions. The learned Advocate for the Petitioners was specifically directed to supply copies of petition. Lastly, on 27/01/2023, the Registrar vide specific order directed that on failure to supply copies, appropriate order will be passed. However, despite it, the petitioners have not supplied copies.	

Here reference to the provision under Chapter XVII of Rule 7(ii) and 7(iii) of the Bombay High Court Appellate Side Rules, 1960 be conveniently made.

Sub-rule (ii) of Rule 7 specifically mentions that the applicant or his advocate shall supply spare copies of the application **within fourteen days** from the date of issue of rule in ordinary cases **or** immediately on the removal of the office objections **or** immediately on the passing of the order in matters where an ex-parte order of the kind referred to in rule 3(v) is made.

Here, the Petitioners have obtained ad-interim relief and thereafter failed to supply spare copies. The above referred rule 7(ii)(c) provides that the applicant or his advocate shall immediately provide the copies. It is pertinent to note that as on today, almost three years have been lapsed and the petitioners have not supplied copies. They have also not filed affidavit of service, despite specific directions of the Hon'ble Court. This lapse may be caused by the Petitioners as ad-interim relief was obtained by them.

In this backdrop, it would be just and proper to make reference to Rule 7(iii) of Chapter XVII of the Bombay High Court Appellate Side, Rules, 1960 which empowers the Registrar that whenever requisite number of copies are not supplied within time prescribed under sub-rule (ii) of Rule 7 above, the application shall be placed forthwith before the Registrar for orders and the Registrar shall dismiss the application for failure to prosecute.

Having regard to the factual aspects coupled with the provisions quoted above, it would be just and proper to dismiss the petition for failure to prosecute.

In turn, by virtue of the powers confirmed upon the Registrar under sub-rule (iii) of Rule 7 of Chapter XVII of the Bombay High Court Appellate Side Rules, 1960, the Petition is dismissed on account of failure to prosecute.

Sd/-
Registrar (Judicial-I)