

Shivgan

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.16982 OF 2023
IN
WRIT PETITION NO.5263 OF 2017

Shivappa Shankar Gidd
Through his POA and Ors.

...
**Applicants/
Petitioners**

Versus

Rukhmini Balkrishna Khebude and Ors.

...**Respondents**

Mr Raghvendra B. Kulkarni, i/b Prasad B. Kulkarni, for the
Applicants/Petitioners.

CORAM: Dr. Neela Gokhale, J.
DATED: 13th December 2023

PC:-

1. The Application seeks restoration of the Writ Petition No.5263 of 2017 and recall of the order dated 16th June 2023 by which the said Writ Petition was dismissed for default. There is a delay of 91 days even in making the present application.

2. The order of dismissal dated 16th June 2023 passed by this Court shows that even on the previous date, i.e., 8th June 2023, none appeared for the Applicants/Petitioners and the petition was directed to be put up for dismissal on 16th June 2023. On 16th June

2023 when none appeared for the Applicants/Petitioners, this Court was left with no alternative but to dismiss the Petition for want of prosecution. It has been recorded that the Petitioners do not appear to be interested in prosecuting the present petition.

3. Mr. Raghavendra Kulkarni, learned counsel for the Applicants/Petitioners states that on both the dates, he had requested his colleague advocate to appear in the matter since he was on his legs in another Court. He says that his colleague failed to appear and thus, the order of the dismissal of the Petition came to be passed. The Applicants/Petitioners reside in Sangli and due to their agricultural activities, they lost the track of the matter and only when they enquired with their counsel, they learnt that their petition was dismissed.

4. I do not find any reasonable justification nor ground either to condone the delay in making the restoration application or in restoring the Writ Petition especially when the Petitioners failed to appear before the Court on two successive dates. However, as an indulgence and also so as not to put the Petitioners in hardship, I deem it fit to condone the delay and restore the petition to its file to be decided on merits, subject to cost of Rs.2,500/- to be paid by the Petitioners/Applicants to the Maharashtra Legal Aid Services Authority within a period of two weeks from today. The petition is thus restored to its file upon proof of costs as directed.

5. Interim Application is disposed of accordingly.

6. List the Petition on 8th January 2024.

(Dr. Neela Gokhale, J)