

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition No.3589 of 2018

JAYANTILAL @ JAGDAMBAPRASAD P. MISHRA (SINCE DECEASED) THR. LRS SUHAS S/O JAYANTILAL
MISHRA AND OR VS SMT. RASHIDA BEE WD/O JAFAR KHAN AND OTHERS

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri B.N. Mohta, Advocate for the Petitioners
Shri N.R. Tekade, Advocate for the respondent No.1
Ms Jaipurkar, AGP for respondent Nos.3 and 4

**CORAM : ANIL S. KILOR, J.
DATED : 10.01.2023**

1. Heard.
2. In this petition, a challenge is raised to the order dated 23.04.2012 passed by the Member, Maharashtra Rent Tribunal (MRT), Nagpur, the order dated 28.09.2006 passed by the Sub-Divisional Officer, Akola and the order dated 30.11.2005 passed by the Tahsildar, Akola, which were passed by the authorities below on the issue referred by the Civil Court in Regular Civil Suit No.857 of 1997.
3. The present petition was filed on 04.06.2018 i.e. almost after 5 years and 10 months of the order passed by the MRT, Nagpur. For such inordinate delay, the explanation is given in paragraph Nos.12 and 13 of the petition, which read thus:

“12. The facts detailed hereinafter would reveal the reason for delay in challenging the orders of the authorities which were beyond the control and power of the petitioners and were unintentional one.

That, during the pendency of Reference by Civil Court to the Revenue Authority in proceeding in R.C.S. No.853/97 were stayed since 2003-2004 in June 2015 Original plaintiff Jayantilal was murdered. Smt. Krushnabai W/o Jayantilal died in July 2012. Ishant S/o Suhas petitioner no.1 aged 2 years was required to be admitted in Hinduja Hospital, Mumbai between 29.02.2012 to 06.09.2012 for treatment. Sanjay s/o Jayantilal and predecessor of petitioner no.2-A to 2-C died in May 2011 and was admitted in hospital at Bombay and died. Before demise of plaintiff Jayantilal Suhas petitioner no.1 was injured in April, 2015 and suffered Tibia fracture and was hospitalized and was required to undergo surgery and was unable to move and look after the cases. Certificate of Dr. Gadia is filed herewith as Annexure-K.

13. Shri G.B. Lohiya Advocate was engaged by original plaintiff on 2001-2002. After the murder of plaintiff in June 2015, since last about 3 years the Lawyer Shri G.B. Lohiya advocate was also not keeping good health and was unable to look after the matter properly. Since last about 6-8 months the lawyers lost ability to speak and also lost voice. The petitioner therefore, engaged Shri S.M. Laddha, Advocate in March-April 2018. Shri Laddha Adv. thereafter going through the records of proceedings came to know filing of the copy of order of M.R.T. by the respondent on 30.06.2015, which appears to have lost sight of by the earlier Advocate Shri B.B. Lohiya due to ill health as detailed earlier. As Shri Laddha Advocate was not the Lawyer of the plaintiff in the suit and the suit was paid, ill health of Lawyer Shri Lohiya and various events and ailments as detailed earlier in the family, the said order of M.R.T. dated 23.04.2012 went unheeded and came to the knowledge of the petitioner in March-April 2018 and thereafter the present petitioner is being moved at the earliest. The delay in the circumstances was caused for the reasons aforesaid and was not intentional and need to be ignored and condoned. The petition in the circumstances needs to be entertained and considered on merits and to be decided on merits.”

4. After going through both the paragraphs, it is evident that the explanation offered by the petitioners is from the year 2012 but for the earlier six years, there is no explanation provided by the petitioners for the cause of delay.

5. Though it is a writ petition, however, it is a settled law that that a writ petition shall be filed in the reasonable period and reasonable period should be the period of limitation which otherwise would have applied in case the appeal was filed.

6. In the circumstances, as no satisfactory reasons are given for such inordinate delay and further considering the fact that the suit is of the year 1997, I am not inclined to entertain the present petition. Accordingly, the petition is **dismissed**.

[ANIL S. KILOR, J.]