



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

8 CIVIL APPLICATION NO. 7740 OF 2023
IN SAST/16521/2023

SOW. DROPADA LAXMAN THITE
VERSUS
LAXMAN RAM THITE

...

Mr. Reddy Ajinkya, Advocate for Applicant

Mr. Eknath G. Irale, Advocate for Respondent No.2

CORAM : Y. G. KHOBRAGADE, J.

DATE : 1st April, 2024

ORDER:

1. Heard the learned counsel appearing for the applicant length.

2. Vide order dated 13th October, 2023, the application was proceeded ex-parte as against the non-applicant Nos. 3 and 4. However, on 28.11.2023, Mr. Chalikwar, the learned counsel appeared on behalf of of Respondent Nos. 3 and 4 and sought time to take appropriate steps. Subsequently, on 19.03.2024, this Court passed the following order:

“1. Non applicant no.1-Laxman Ram Thite was duly served with notice on 25.08.2023 but failed to appear in the matter.

2. The learned counsel appearing for the applicant seeks seeks short accommodation on the ground that due to

personal difficulty the arguing counsel is not available.
Adjournment granted. Stand over to 01.04.2024.

3. Since the learned counsel for the non-applicant nos.3 and 4 had put appearance on instructions but failed to file Vakalatnama within a period of one week therefrom, therefore as per the provisions of Chapter 32 Schedule 7 Rule 6A appearance of the counsel on behalf of non-applicant nos.3 and 4 is discharged.”

In view of the above, the matter is proceeded ex-parte as against non applicant Nos. 3 and 4.

3. By the present application, the applicant prays for condonation of 608 days delay caused while lodging the appeal against judgment and decree dated 23.04.2021 passed by the learned first appellate Court in RCA No. 22 of 2014 arising out of judgment and decree dated 20.04.2005 passed by the learned trial court in RCS No. 86 of 2012.

4. According to the applicant, on 23.04.2021, the first appellate court passed the impugned judgment and decree, however, due to Covid-19 Pandemic they could not institute the second appeal within stipulated period so also some time has been consumed in obtaining certified copies of the relevant record.

5. In order to seek extension of limitation, the applicants relied on the following observations of the Hon'ble Apex Court- in "Re-cognizance for extension of limitation" in the order dated 23.03.2020.

"This court has taken Suo Motu cognizance of the situation arising out of the challenge faced by the country on account of Covid-19 Virus and resultant difficulties that may be faced by litigants across the country in filing their petitions/applications/suits/applications/all other proceedings within the period of limitation prescribed under the general law of limitation or under Special Laws (both Central and or State). To obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/ Tribunals across the country including this Court, it is hereby order that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15th March, 2020 till further order/s to be passed by this court in present proceedings. We are exercising this power under Article 142 read with Article 141 of the Constitution of India and declare that this order is binding order within the meaning of Article 141 on all Courts/Tribunal and authorities."

6. Contentions of the applicants are not denied by the non applicants. Therefore, considering the period of delay which has

been exempted/extended by the Hon'ble Supreme Court, the delay of 608 days caused in filing the appeal is hereby condoned.

7. Office to register the Second Appeal and place before this Court for further action on 22.04.2024.

8. Civil application is accordingly disposed of.

(Y. G. KHOBRAGADE, J.)

JPChavan