

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CIVIL APPLICATION NO. 116 OF 2022****IN****FIRST APPEAL NO. 9860 OF 2006**

Vithoba Joti Bhosale (deceased through successors) ... Applicants
Yashoda Janaba Bhosale and Ors.

Versus

State of Maharashtra and Anr. ... Respondents

Ms. Bhavika Shinde i/b. Mr. Umesh R. Mankapure, Advocate for the
Applicants.

Mr. D.S.Haldankar, AGP for the Respondent-State.

CORAM : ARUN R. PEDNEKER, J.

DATED : 1st JULY, 2024.

P.C. :

1. The present civil application is filed by the applicants seeking restoration of the appeal dismissed for non removal of office objections along with prayer for seeking condonation of delay of 11 years 48 days in filing the present Civil Application.

2. Learned counsel for the applicants submits that Advocate appearing for the claimants was elevated to the bench of this Court on 09.09.2006, as such none was present before the Court on 12.09.2006 when the applicant was given last opportunity to remove the office objections. Learned counsel further submits that the appellant No.1 has expired thus,

the applicants were not aware of either pendency or dismissal of the appeal. When the enquiry was made as to what has happened with the pending appeal, the claimants have realised that the same is dismissed for non prosecution. Learned counsel submits that the lands of the applicants are compulsorily acquired and they were depending on the said land. She submits that the other connected appeals were admitted at the relevant time arising out of the similar references for the same acquisition all those appeals are also pending before this Court. There would be no additional benefit of interest that would be available to the applicant over and above what could be applicable to the other claimants whose appeals are filed before this Court. She submits that delay be condoned is in the interest of justice and the appeal be restored.

3. Learned AGP for the respondent-State has opposed to the same. However, taking into consideration that other connected appeals are also pending and the Advocate representing for claimants was elevated as a Judge before this Court and the claimants had no knowledge about the dismissal of the appeal for non prosecution, I see that as application is bonafide and there is no intention of the applicant to delay the proceedings. No prejudice would be caused to the respondents whereas the right of appeal of the applicant would be defected if the appeal is not restored.

4. For the reasons stated in the application, the delay is condoned. The appeal is restored to the file.
5. In view of the above, Civil Application is disposed of.

(ARUN R. PEDNEKER, J.)

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