

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.19 OF 2021
IN
CIVIL REVISION APPLICATION NO.297 OF 2008**

Pune Vishwa Brahman Samaj & Ors.

... Applicants

Vs.

Mr. Narayan Husanappa Bhimale (since Deceased)
through legal heirs Smt. Sunita Narayan Bhimale & Ors

... Respondents

Mr. Sumedh S Modak i/by Mr. Vijay Killedar for the Applicants.
Adv. Yuvraj A. Tajare i/b. Mr. Nitin Mulye for the Respondents.

CORAM : M. M. SATHAYE, J.

DATED : 20th FEBRUARY, 2024

P.C.:

1. This is an application for restoration of the revision application, which is dismissed as a result of conditional order dated 08/06/2018 passed therein. There is a delay of 60 days in filing the present Application.
2. Heard learned Counsel for the Applicants and learned Counsel for the Respondent Nos. 1(a) to 1(c).
3. Learned Counsel for the Applicants submits that the conditional order directed the Applicants to take steps to serve the unserved Respondents. He submits that in this matter there was sole Respondent, who has expired and his legal heirs are duly brought on record under order dated 09/08/2023

passed in separate Interim Application No. 20505 of 2022. He submits that in view thereof, the reason for dismissal under order dated 08/06/2018 no longer survives. He therefore, prays for restoration.

4. Learned Counsel for the Respondents opposes this Application on the ground that the Applicants have been negligent about proceeding with the present matter and relied on two earlier orders dated 29/09/2007 and 06/12/2013 passed by this Court, showing that in past also the present Revision Application was dismissed and restored. He submits that sufficient indulgence has already been shown to the Applicants.

5. Above Revision was admitted by issuing Rule and it was pending for final disposal. Considering that and the fact that reason for conditional dismissal no longer survives as the sole Respondent has been duly represented through his legal heirs who are brought on record, sufficient cause and case for restoration is made out. However, considering that the Petition / Revision Application was dismissed earlier also on two occasions, the Respondents will have to be compensated.

6. Hence, the Interim Application is allowed in terms of prayer clause (b) and (c); delay is condoned and the above Revision is restored to file for hearing on merits subject to condition that the Applicants pay costs of Rs.10,000/- to the Respondents, to be paid to the Respondent No.1(b)-

Milind Narayan Bhimale on behalf of all the Respondents, within a period of four weeks from today. It is clarified that if the costs are not paid within the stipulated time with its proof duly furnished to the office, the Application shall stand dismissed without further reference to the Court.

7. The cost can be paid by drawing a demand draft in the name of Respondent No. 1(b) and handing over it to learned Counsel appearing for the Respondents.

8. All concerned to act on duly authenticated or digitally signed copy of this order.

(M. M. SATHAYE, J.)