

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.20396 OF 2022

IN

FIRST APPEAL NO.1154 OF 1997

Ramlakhan S/o Ramjore Devidayal Yadav & Ors. : Applicants

IN THE MATTER OF

Khira W/o Ramjore D. Yadav & Ors. : Appellants

Vs.

Isravati Jagdev Pandey & Ors. : Respondents

Adv. Rupesh Mandhare i/by Adv. Vijaya Ingule for the Applicants.
Adv. Keshav Borhade i/by Shelke & Co. for the Respondent Nos.1 to 4.

CORAM : KISHORE C. SANT, J.

DATE : 5TH FEBRUARY, 2024

PC. :

1. Heard the parties.
2. This Application is filed seeking restoration of the First Appeal bearing No.1154 of 1997 that was dismissed, in view of the conditional order dated 18th March, 2019 passed by the Registrar Judicial-II. Time of four weeks was granted for depositing paper book charges in the Trial Court. In case of failing the registration was to be refused without further reference. Since no paper book charges were deposited the First Appeal

stood dismissed.

3. Learned Advocate for the Applicants submits that in fact there is no fault on the part of the litigant. The order was not communicated by the lawyer of the Applicants. Applicants made an inquiry with new lawyer. He came to know that the matter is dismissed in view of the order passed by the Registrar Judicial-II. It is only thereafter the Applicants preferred this Application. There is delay of 3 years 210 days in preferring the Application. It is seen that the order was passed in March, 2020 and the said was not brought to the notice of the Applicants from April, 2020 till March, 2022. In view of the order passed by the Hon'ble Apex Court period stands excluded.

4. Learned Advocate for the Respondents vehemently opposes the Application stating that there is no explanation for the delay from March, 2019 till April 2020 & prays for dismissal with any costs.

5. Considering that, the Applicants had no knowledge as appeared for his Application of the order. Considering that is more than three years this Court feels that it would be in the interest of justice of both the parties to allow the Application by imposing costs.

6. The Application is allowed subject to cost of Rs.20,000/- to be paid to four respondents (Rs.5000/- each).

7. Costs along with paper book charges be deposited within a period of four weeks. The matter to stand restore to its position subject to compliance of above order.
8. Application stands disposed of.

(KISHORE C. SANT, J.)