

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

**INTERIM APPLICATION NO. 17748 OF 2023
In
CIVIL REVISION APPLICATION (ST) NO. 4697 OF 2022**

Padmakar Vinayak Phadke (since Deceased)
Thr. Lrs.Mrs. Mekhala Mahesh JoshiApplicant
V/S
Smt. Parvatibai Shankar Naik (since Deceased) Thr.
Lrs. Shri. Ashok Shankar NaikRespondent

Adv. Sonali R. Chavan a/w. Adv. Aditya P. Kharkar i/b. Dr. Uday P. Walunjikar
for the Applicant.
Mr. Oka for the Respondent.

CORAM : M. M. SATHAYE, J.

DATED : 14th FEBRUARY, 2024

P.C.:

1. This is an application for restoration of the above Revision Application, which is dismissed under conditional order dated 11/08/2022 for non-removal of office objections. There is delay of 1 year and 45 days in filing the Application.
2. The sole Respondent is served and represented by a lawyer, who opposes grant of this Application on the ground that reasons offered for delay and non-removal of office objections are not sufficient. This Application is filed on 09/11/2023. No Reply is filed till date.
3. Learned Counsel for the Applicant submits that between the same

parties being landlord and tenant, there were two litigations arising out of RCS No. 186 of 2003 and RCS No. 185 of 2003. She submitted that both these suits have led to the present Revision Application and one more Civil Revision Application being CRA No. 405 of 2022.

4. She submitted that similar conditional order of removal of office objection was passed in other CRA and those were removed in time. However, due to bonafide mistake, the Applicant continued to believe that office objections are removed in both the Revision Applications. It is submitted that due to this, the delay has occurred, which is not deliberate or willful. It is urged that it is necessary to permit the Applicant to prosecute the matter on merits rather than being nonsuited on technical ground.

5. Considering the aforesaid submissions, and averments in the Application which are uncontroverted so far, sufficient cause is made out. It is just and necessary to set aside the conditional order and restore the revision to be heard on merits.

6. Learned Counsel for the Respondent submits that his client be appropriately compensated as there are concurrent findings of facts in his favour, which are now again put under challenge. Considering the facts of the case, the Respondent needs to be compensated.

7. Therefore, the Interim Application is allowed in terms of prayer clause

- (a); delay is condoned and the above Civil Revision Application is restored to file, subject to conditions that within a period of 4 weeks from today,
- (i) the Applicant shall remove all the pending office objections, if any, and
 - (ii) the Applicant shall pay costs of Rs.10,000/- to the Respondent.

8. It is clarified that if any of the above conditions is not complied within stipulated time, this Application shall stand dismissed without further reference to the Court.

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

(M. M. SATHAYE, J.)