

HARSHADA H. SAWANT  
(P.A.)

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

**WRIT PETITION NO.4292 OF 2024**

Dr. Mahabaleshwar P. Rao

.. Petitioner

**Versus**

Mr. Madhukar Hira Bhoir and Ors.

.. Respondents

- .....
- Mr. Vishwanath Patil, Advocate for Petitioner.
- .....

**CORAM : MILIND N. JADHAV, J.**

**DATE : APRIL 10, 2024**

**P.C.:**

- 1.** Mentioned out of turn.
- 2.** Heard Mr. Patil, learned Advocate for Petitioner.
- 3.** At the outset, Mr. Patil would submit that the Petitioner seeks leave of this Court to amend and implead a Developer, as proper and necessary party in view of the construction activity carried out on the suit property pursuant to disposal of the suit for specific performance filed by the Petitioner who was the Plaintiff before the Trial Court. Leave to amend is granted. Necessary amendment is permitted to be carried out within a period of one week from today. Re-verification stands dispensed with. Copy of amended Petition shall be served on the Respondents including the newly added Respondent.
- 4.** Mr. Patil seeks to file an additional Affidavit dated 10.04.2024 in support of the Writ Petition. He would submit that the contents of the said Affidavit would justify the delay that has occurred.

Registry is directed to accept the said Affidavit which shall be filed within a period of one week from today. It shall also be served on all Respondents.

**5.** I have perused the impugned order dated 21.03.2018 passed by the learned Trial Court in respect of rejection of Application filed by the Writ Petitioner who is Appellant before the District Court in Regular Civil Appeal. Application seeking restraint and restoration of *status quo* which was initially granted by the Appellate Court but was vacated by a subsequent order.

**6.** Mr. Patil would however submit that the impugned order has been passed in the year 2018 and the Writ Petition is filed in the year 2024 and there is a substantial delay. However, he would submit that substantial period of the delay approximately to the extent of almost three years was lost in the COVID-19 Pandemic and in that view of the matter the over all period of delay of six years would therefore stand reduced to a period approximately of four years.

**7.** He would urge the Court to look into the facts and circumstances of the present case. I have perused the impugned order and what I find is that the Writ Petitioner is the Appellant before the District Court having challenged in Appeal the dismissal of his suit for specific performance.

**8.** In view of the submissions made by Mr. Patil, an arguable case has been made out for issuance of notice to Respondents.

**9.** Hence, issue notice to the Respondents. Humdast permitted. In addition to Court's notice, Petitioner is directed to serve the Respondents a copy of this order and copy of the Writ Petition and inform them about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof. Respondents are directed to file Affidavit-in-Reply to the Writ Petition on or before the next date.

**10.** Stand over to **24<sup>th</sup> April, 2024.**

H. H. SAWANT

[ MILIND N. JADHAV, J. ]

HARSHADA  
HANUMANT  
SAWANT

Digitally signed by  
HARSHADA  
HANUMANT  
SAWANT  
Date: 2024.04.10  
19:17:50 +0530