

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6220 OF 2024

Withabai Kamalakar Thombare (since deceased)
through her legal heirs Tukaram Kamalakar
Thombare and Ors. .. Petitioners

Versus

Ananta Vithu Shelke (since deceased) through
his legal heirs Sangita Ananta Shelke and Ors. .. Respondents

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- Mr. Mutahhar Khan a/w. Ms. Akshita Vakharia i./by Mr. Dharmesh Joshi, Advocates for Petitioners.
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CORAM : MILIND N. JADHAV, J.

DATE : JULY 11, 2024

P.C.:

- 1.** Mentioned. Not on Board. Taken on Board.
- 2.** Heard Mr. Khan, learned Advocate for Petitioners.
- 3.** Perused the praecipe dated 11.07.2024 and the Writ Petition.
- 4.** By order dated 21.02.2024 passed below Civil Miscellaneous Application No.76 of 2019, the learned District Court has rejected the Application seeking condonation of delay of 11 days in filing the Regular Civil Appeal.
- 5.** Mr. Khan would inform that the suit filed by Plaintiffs who are Appellants, came to be dismissed under Order VII Rule 11 of Code of Civil Procedure, 1908 (for short '**CPC**') for under valuation.

6. He would submit that Plaintiffs can prove that the suit was valued correctly and adequately and in that view of the matter, Regular Civil Appeal was filed. I have perused the order dated 21.02.2024. There are no reasons given while passing the order and hence the order cannot be sustained. The order is therefore quashed and set aside.

7. Resultantly, the Application for condonation of 11 days as filed by Appellants before District Court stands allowed. The Regular Civil Appeal shall be registered and duly decided in accordance with law after hearing all parties. All contentions of parties are expressly kept open and it is clarified that this Court has not opined on any merits of the matter of valuation.

8. With the above directions, Writ Petition is disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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