

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 9721 OF 2024
IN
CIVIL REVISION APPLICATION (STAMP) NO.16799 OF 2024

Indrajit Chhabra (since deceased)

1a. Mrs. Leeladevi Chhabra and Anr.

....Applicants

V/s.

Jagannath Bala Patil and Ors.

....Respondents

Mr. Asutosh Shukla *with Mr. Enait Shaikh for the Applicants.*

CORAM : SANDEEP V. MARNE, J.

Dated : 25 June 2024.

P.C. :

1) By this application, the Applicants seek condonation of delay of over 9 years in filing the civil revision application challenging the Judgment and Decree dated 15 July 2015 passed by the Appellate Bench of the Small Causes Court, Mumbai in Appeal No.624 of 2001.

2) It appears that the Plaintiff had instituted R.A.E. & R. Suit No.165/463 of 1987 seeking recovery of possession from the Defendants. The Suit came to be decreed by the Trial Court on 4th /5th May 2001. The Applicants filed Appeal No.624 of 2001 before the Appellate Bench, which came to be dismissed by Judgment and Decree dated 15 July 2015. The

Applicants have given following justifications for condonation of delay of 9 long years.

4. I state that my mother, the Applicant no.1a is aged more than 65 years and is suffering from Blood Cancer which has restricted her movements. Due to her medical condition, she was unable to look after the matter and after the said order dated 15th July 2015 the Respondents has not taken out the execution application till 2019. I say that it is after the order passed by executing court dated 13th March 2024 when in execution application no.Exe Application 516 of 2019 the Hon'ble Court has issued possession warrant. I say that I have taken out application before the Executing Court the original plaintiff without taking steps as contemplated under Order XXI Rule 22 of the CPC and the suit premises is declared as slum area vide notification dated 30.12.1978. I say that the said Application being Exhibit 14 came to rejected on 20/01/2024.
5. I say that the earlier Advocate has not informed about any proceedings and the applicant no.1a due to her medical condition could not enquire about the matter and I being the only son was taking care of my mother. I say that after the possession warrant that the Applicants has contacted the Advocate who has informed to challenge the said order before this Hon'ble Court.

3) Though Applicant No.1a is suffering from blood cancer as sought to be pleaded, no particulars in that regard are produced alongwith the application. Furthermore, there is a specific admission in the application that execution proceedings were filed in the year 2019 and which were contested by the Applicants. This would indicate knowledge on the part of the Applicants about passing of the impugned decree by the Appellate Bench. However, instead of challenging the said decree the Applicants kept on contesting the execution proceedings.

4) The contention of the Applicants about non-furnishing of information to the Applicants by the earlier Advocate cannot be accepted in view of contest raised by the Applicants to the execution proceedings.

5) In my view no sufficient cause is made out for condonation of delay of 9 long years in filing civil revision application. The interim application is accordingly rejected. With the rejection of the interim application nothing would survive in the civil revision application and same shall stand disposed of.

[SANDEEP V. MARNE, J.]