



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

MISC. CIVIL APPLICATION NO.6 OF 2023

Writ Petition No.3122 of 2014 (D)

SHRI PRAKASH S/O NILKANTHRAO CHINTAWAR AND ANOTHER
VS

SHRI DNYANESHWAR S/O TRYAMBAKRAO PATIL

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Anil Mardikar, Sr. Advocate a/b Shri K.K. Nalamwar, Advocate for the
applicants

Shri S.Y. Deopujari, Advocate for the non-applicant (*Suo Motu* present)

CORAM : ANIL S. KILOR, J.

DATE : 22.04.2024

1. Heard.
2. This is a review application filed by an unsuccessful tenant before the learned First Appellate Court and this Court and who suffered a decree of eviction.
3. The judgment, which is sought to be reviewed is dated 19.11.2018. The application for review was filed on 03.05.2019 i.e. after six months from the date of the judgment. There is no application filed seeking condonation of delay. Since the judgment sought to be reviewed is in writ petition, therefore, it is submitted that there is no requirement to file an application for condonation of delay.
4. However, in the review application, the explanation offered by the applicants for delay is vague.

5. It is pertinent to note that after filling of this review application on 03.05.2019, it was remained under office objection for more than three and half years and which were removed on 23.12.2022. Thereafter, first time, the matter was listed before this Court on 07.01.2023 and till date, it was not argued and was adjourned time to time.

6. Shri Deopujari, learned counsel for the non-applicant, submits that as the applicants sought adjournments before the trial Court on the ground that the present application is pending, he got the knowledge about this matter and hence, he appeared on his own on behalf of the non-applicant.

7. The learned counsel for the non-applicant informs that the applicants have been seeking adjournments before the Executing Court since filing of the review application on the ground that the review application is pending. It is submitted that though the landlord succeeded in the eviction proceeding, he has been denied the fruits of the decree for the aforesaid reason from last five and half years.

8. Considering the above referred dates and events, it is evident that the conduct of the applicants is an abuse of process of law, since the applicants have delayed the proceeding before the Executing Court in the above referred manner. Thus, from the conduct of the applicants, it is evident that the only purpose of filing of this review application was to delay the proceeding before the Executing Court for years together. Such practice needs to be deprecated.

9. In the above referred backdrop, the applicants were granted an opportunity to explain their above referred conduct. Some justifiable explanation was expected, however, it is stated that there is no explanation available with the applicants.

10. In the circumstances, I have no hesitation to observe that the applicants have abused the process of law and since they have not approached to this Court by way of this application with clean hands, this is a sufficient reason for rejection of the present application without going into the merits. Accordingly, the review application is **rejected**.

[ANIL S. KILOR, J.]