



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

912 WRIT PETITION NO. 8902 OF 2024

1. Rajesh s/o Baliram Satpute,
Age : 25 years, Occup. Agril.
R/o At Post : Jodparali,
Tq. and Dist. Parbhani
 2. Haripal s/o Baliram Satpute,
Age : 22 years, Occu. Agril.,
R/o At Post : Jodparali,
Tq. and Dist. Parbhani
 3. Chandrakalabi w/o Baliram Satpute,
Age : 46 years, Occu. Agriculture,
R/o At Postd: Jodparali,
Tq. and Dist. Parbhani
- ...Petitioners

Versus

4. Gayabai w/o Shrihari Karhale,
Age: 39 years, Occup. Household,
R/o Goudgaon, Tq. Gangakhed,
District : Parbhani
 5. Prayagbai w/o Manikrao Jadhav,
Age: 43 years, Occup. Household,
R/o Kadmuli, Tq. Chakur, Dist. Latur
 6. Chayabai w/o Ramkrushna Magar,
Age : 37 years, Occup. Household,
R/o Kanadi, Tq. Parali, Dist. Beed
- ...Respondents

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Mr. Pradi N. Sonpethkar, Advocate for the Petitioners
Mr. Nilkanth R. Pawde, Advocate for respondent nos.1 and 2.

...

CORAM : ROHIT W. JOSHI, J.
DATED : 30th JULY 2025

ORAL JUDGEMENT :-

1. Rule. Rule made returnable forthwith.
2. Heard finally with consent of both the parties.
3. Regular Civil Appeal No.5 of 2015 preferred by the present petitioners came to be dismissed for want of prosecution vide order dated 03.01.2022 and on account of failure on the part of the petitioners/appellants to deposit charges of paper book.
4. The petitioners filed an application for restoration of appeal along with an application for condonation of delay of 7 days caused in filing restoration application. The learned Appellate Court has rejected application for condonation of delay on the ground that although delay was sought to be explained on the ground that the appellant no.1 was indisposed, no documents were filed in order to substantiate the said contention.
5. Without going into the niceties of the matter, in the considered opinion of this Court it will be expedient in the interest of justice to quash and set aside order dated 02.07.2024 and allow the said application for condonation of delay. The Writ petition is needs to be allowed by quashing and setting aside order dated 02.07.2024 passed by the learned District Judge, Gangakhed in Civil Miscellaneous Application No.11 of 2022.
6. Although, the petition is allowed having regard to the fact that right to appeal is a substantive legal right one cannot lose sight of the fact that the appeal is of the year 2015 and till the year 2022 the

petitioners/appellants did not even deposit paper book charges. The appeal was required to be dismissed for such conduct on the part of the petitioners/appellants. The restoration application was also not filed within prescribed period of limitation. Having regard to such conduct, it will be expedient in the interest of justice that cost of Rs.15,000/- is awarded as condition for allowing the petition. Hence the following order :-

ORDER

- i. The Writ Petition is allowed subject to condition that petitioners shall pay cost of Rs.15,000/- to the respondents. Costs to be deposited on or before 04.08.2025.
- ii. The order dated 02.07.2024 passed by the learned District Judge, Gangakhed in Civil Miscellaneous Application No.11 of 2022 is quashed and set aside.
- iii. Civil Miscellaneous Application No.11 of 2022 is allowed.
- iv. Paper book charges will also be deposited by the appellants/petitioners on or before 11.08.2025.
- v. Request for extension of time will not be entertained. In the event cost and paper book charges are not deposited as aforesaid, petition shall stand dismissed without reference to the Court.
- vi. Parties are directed to appear before the learned Appellate Court on 04.08.2025. Parties to note that separate notice for appearance will not be issued.

vii. The learned Appellate Court is directed to decide the application for restoration on or before 30.08.2025. In the event the appeal is restored, the learned Appellate court is directed to take up the appeal for hearing forthwith and decide the same on or before 30.11.2025.

[ROHIT W. JOSHI, J.]