

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 19214 OF 2024

Bharat Ganpat Teli (Kshirsagar) and ... Petitioners
Ors.

V/s.

The Saswad Mali Sugar Factory Ltd ... Respondents
and Ors.

Mr. Abhishek T. Ingale, for the Petitioners.

Mr. Kayval P. Shah, for the Respondents.

CORAM : N.J. JAMADAR, J.

DATE : 29TH APRIL 2025.

PC:

1. Heard the learned counsel for the parties.
2. The challenge in this petition is to an order dated 14th October 2021 passed by the learned Civil Judge, Malshiras whereby an application preferred by the plaintiff to bring the legal representatives of the plaintiff no. 2, on record by condoning the delay in seeking the setting aside of the abatement and in bringing the LR's on record, came to be allowed.
3. Initially, the plaintiff had preferred an application on 13th October 2021 (Exhibit-151) to bring legal representatives of the plaintiff no. 2, who passed away on 28th September 2020, on record. However, in the said application the plaintiff had not made a prayer for condonation of

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delay. Thus, another (Exhibit-161) was filed seeking condonation of delay in filing the application to bring the LR's on record.

4. The learned Civil Judge was persuaded to allow the main application (Exhibit-151) by the impugned order passed on the very day, the application (Exhibit-161), was preferred.

5. The learned counsel for the petitioners submitted that the plaintiffs had made an incorrect statement that, the delay occurred as this Court had stayed the proceedings in Suit No. 668 of 2002.

6. Attention of this Court was invited to an order dated 13th March 2006, whereby this Court had stayed the order passed below (Exhibit-50) till the final disposal of the petition. However, the suit was directed to proceed further.

7. It appears that the statement in the application (Exhibit-161) that the suit had been stayed by this Court is incorrect. Nonetheless, it is a matter of record that main application (Exhibit-151) was filed during the Covid-19 Pandemic and the plaintiffs would have had the benefit of suspension of period of limitation.

8. In any event, it is trite law that in the prayer for bringing LR's on record the prayer to set aside the abatement and condone the delay is implicit. Therefore, though a separate application (Exhibit-161) was filed seeking condonation of delay, yet, the said prayer was impliedly subsumed in the main application (Exhibit-151).

9. The Court is informed that the trial in the suit has been expedited.

10. In these circumstances, this Court does not find any justifiable reason to interfere with the impugned order which promotes the adjudication of the lis on merit.

11. Petition stands disposed.

(N.J. JAMADAR, J)