

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.163 OF 2024

Rajendrakumar M. Pandey ...Applicant

Versus

B.L. Rauia Trust & Ors. ...Respondents

Mr. Sonal Dabholkar i/by Mr. Shriram Redij, Advocate for Applicant.

Mr. Makrand Raut (through VC) a/w Ms. Bhavika Solanki Advocate for Respondent Nos. 4 and 5.

CORAM: MADHAV J. JAMDAR, J.

DATED : 7th April 2025

P.C.:

1. Heard Ms. Sonal Dabholkar, learned Counsel for the Applicant and Mr. Makrand Raut, learned Counsel for Respondent Nos.4 and 5.

2. A learned Single Judge by Order dated 26th June 2024 issued notice to the Respondents and granted liberty to the Applicant to serve the Respondents personally.

3. As far as notice sent to Respondent No.1 is concerned, it has returned back with remark 'refused' and thus the same is good

service. As far as Respondent Nos. 2 and 3 are concerned, they have been deleted.

4. Mr. Makarand Raut, learned Counsel appears for Respondent Nos.4 and 5 through VC. Respondent Nos.6 and 7 have been served. Accordingly, all the Respondents are served.

5. By the present Civil Revision Application, challenge is to the Order dated 3rd January 2024, passed by the learned Appellate Bench, Small Causes Court, Mumbai in Appeal (Stamp) No.419 of 2023 (old No.1768 of 2011) by which the said Appeal was dismissed for non-removal of office objections.

6. Perusal of the record shows that the said Appeal was earlier dismissed by Order dated 13th October 2012 for non-removal of office objection. The same was challenged in this Court by filing Civil Revision Application No.645 of 2016. By order dated 19th December 2013 a learned Single Judge allowed the said Civil Revision Application by passing following operative Order:-

“5. The impugned Order dated 13th October 2012 is quashed and set aside, subject to payment of costs of

Rs.10,000/- to be paid by the Applicant to the Respondent No.1- Trust within a period of two weeks from today. **The office objections are directed to be removed by the Applicant within a period of two weeks from today. In the event, the office objections are not removed within prescribed period, no further application on behalf of the Applicant will be entertained.** Civil Revision Application is allowed in the above terms.”

(Emphasis added)

7. In compliance of the said Order dated 19th December 2023, all office objections have been removed, however, the learned Appellate Bench by observing that office objections regarding delay of 81 days is not removed and therefore dismissed the said Appeal for non-removal of office objections. However, learned Counsel for the Applicant states that as the office objection was of delay of 81 days, Marji Application (St.) No.5 of 2024 was filed on 29th December 2023 i.e. within a period of 10 days after a learned Single Judge passed said Order dated 19th December 2023. She therefore states that in fact as the Marji Application is filed, the same is required to be decided by the learned Appellate Court and therefore all the objections stands removed except delay condonation, for which the said Marji Application (St.) No.5 of 2024 has been filed.

8. Thus, it is clear that the observations of the learned Appellate Court that the said delay should have been condoned within said period of 15 days granted by this Court is in fact misreading of the Order of this Court.

9. Accordingly, Order dated 3rd January 2024, passed by the learned Appellate Bench, Small Causes Court, Mumbai in Appeal (Stamp) No.419 of 2023 below Exhibit 1 is quashed and set aside and said Appeal is restored to the file. Order dated 3rd January 2024 passed below Exhibit-1 in Marji Application (St.) No.5 of 2024 disposing the same as Appeal is dismissed is also quashed and set aside and said Marji Application is restored to the file.

10. As the original Appeal filed is of the year 2011, the learned Appellate Court is requested to dispose of said Marji Application (St.) No. 5 of 2024 expeditiously.

11. Accordingly, the Civil Revision Application is allowed in above terms with no order as to costs.

BHALCHANDRA
GOPAL DUSANE

(MADHAV J. JAMDAR, J.)

Digitally signed by
BHALCHANDRA
GOPAL DUSANE
Date: 2025.04.09
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