

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.2125 OF 2024
IN
CIVIL REVISION APPLICATION NO.83 OF 2012
WITH
INTERIM APPLICATION NO. 2126 OF 2024
IN
CIVIL REVISION APPLICATION NO.83 OF 2012

Namdeo Satwa Godalkar (deceased) through LRs ...Applicants

Versus

Vasant Shankarrao Barse & Ors.

...Respondents

Mr. Amol Wagh, Advocate for Applicants.

Ms. Zeel Jain a/w Mr. Digvijay Patil i/by Mr. Anilkumar Patil for Respondents.

CORAM: MADHAV J. JAMDAR, J.

DATED : 8th JANUARY 2025

P.C.:

INTERIM APPLICATION NO. 2125 OF 2024 :

1. For the reasons set out in the Interim Application, the same is allowed in terms of prayer clauses (a) and (b).
2. Amendment be carried out within a period of 14 days from today.

3. The Interim Application No.2125 of 2024 is disposed of in above terms with no order as to costs.

INTERIM APPLICATION NO.: 2126 OF 2024 :

1. The Interim Application is filed for restoration of the Civil Revision Application. By the Order dated 4th May 2016 passed by the learned Single Judge, the Civil Revision Application was dismissed for default.

2. Mr. Wagh, learned Counsel appearing for the Applicants states that by Order dated 9th April 2012, the Civil Revision Application was admitted and ad-interim relief in terms of prayer clause (d) was granted. He submits that an Advocate appearing for the Applicants has not noticed that the matter was on board on 4th May 2016 and therefore he could not appear. He submits that the Applicants came to know that the matter has been dismissed for default only after receiving the notice dated 30th January 2024 in Regular Darkhast No.12 of 2023. He states that thereafter immediately steps have been taken and on 16th February 2024, this Interim Application is filed.

3. Ms. Jain, learned Counsel appearing for the Respondents strongly opposes the application. She submits that there is a delay of more than 7 years and therefore, the Application be dismissed.

4. Although the learned Counsel appearing for the Respondents is right in contending that there is delay of more than 7 years, however, the delay has been properly explained.

5. It is required to be noted that the Civil Revision Application was admitted by Order dated 9th April 2012 and interim relief granting stay to the eviction decree is passed. Accordingly, in the interest of justice, the Interim Application No. 2126 of 2024 is allowed in terms of prayer clauses (a), (b) and (c) subject to the Applicant's paying cost of Rs.10,000/- to the Respondents. Such cost be paid within a period of four weeks from today.

6. The Interim Application No.2126 of 2024 is disposed of in above terms.

(MADHAV J. JAMDAR, J.)

BHALCHANDRA
GOPAL
DUSANE

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