

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.6729 OF 2025
IN
WRIT PETITION NO.3750 OF 2013**

VAIBHAV
RAMESH
JADHAV
Digitally signed by
VAIBHAV RAMESH
JADHAV
Date: 2025.04.01
19:00:57 +0530

Suresh Tukaram Umale & Ors. ... Applicants

V/s.

The State of Maharashtra & Ors. ... Respondents

Mr. Ashish Dubey with Rahul Tripathi, Gayatri Gupta
and Vishal Sheth for the applicants.

Mr. Sanjay D. Rayrikar, AGP for the State-respondent
Nos. 1 and 3.

CORAM : AMIT BORKAR, J.

DATED : APRIL 1, 2025

P.C.:

1. The present Interim Application is filed seeking restoration of the writ petition which came to be dismissed by an order dated 18th October 2016. It is pertinent to note that there is an inordinate delay of 2922 days in filing the present application. The sole ground urged by the applicants to explain such delay is the alleged prolonged illness of the petitioner, who claims to be suffering from Liver Cirrhosis. Though ordinarily, this Court would adopt a liberal approach while considering an application for condonation of delay in the interest of substantial justice, especially when medical grounds are pleaded, it is equally well

settled that litigants cannot sleep over their rights and then seek indulgence of the Court after an unreasonable lapse of time, unless they disclose sufficient and cogent cause which prevented them from taking timely steps.

2. In the present case, the order dated 18th October 2016 clearly records that the writ petition was dismissed for non-compliance of the conditional order directing the petitioners to pay costs of ₹2,500/- to the contesting respondents. It was further made clear in the said order that failure to comply with the said direction would result in automatic dismissal of the petition without further reference to the Court. The record reflects that the petitioners were well aware of the said direction and the consequence of non-compliance. Despite such knowledge, no steps were taken for an inordinately long period of more than eight years. This conduct of the petitioners is demonstrative of gross negligence and lack of bona fides.

3. Furthermore, a perusal of the original writ petition indicates that even therein, the petitioners had merely challenged the dismissal of the revision application for default, which in itself does not raise any substantial question of law or manifest illegality requiring interference in extraordinary writ jurisdiction under Article 226 of the Constitution of India.

4. Upon further scrutiny of the material placed on record, it emerges that the proceedings originate from an order passed under Section 36A of the Maharashtra Land Revenue Code, 1966. It is also not in dispute that during the pendency of proceedings,

the subject land has been developed and construction has taken place thereon. Moreover, it appears that third party rights have been created, possibly through transactions or development agreements, the legality and implications of which cannot be adjudicated in these proceedings in absence of those parties.

5. In such circumstances, revival of the writ petition after such an extraordinary delay would serve no useful purpose and may, in fact, result in unsettling third-party interests that may have crystallized over the years. It is trite law that discretionary powers of this Court under Article 226 are not to be exercised in vacuum, and the Court must be conscious of equities and potential ramifications upon third parties who are not before the Court.

6. Having regard to the totality of the circumstances, and in absence of any sufficient or satisfactory cause shown for condonation of the gross delay, this Court is not inclined to exercise its discretion in favour of the applicants. No case is made out for restoration of the petition. Accordingly, the Interim Application stands rejected. There shall be no order as to costs.

(AMIT BORKAR, J.)