



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.470/2025

Vilas Jagobaji Bomanwar and Ors. .Vs. Sau. Nirmala Manoharrao Shatalwar (Dead)
thr. LRs. And Ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. N. Waghmare, Advocate for petitioners.

CORAM : ANIL L. PANSARE, J.

DATE : JANUARY 27 , 2025

Heard.

2. The petitioner is aggrieved by order dated 15.12.2023 passed by 3rd Jt. Civil Judge Junior Division, Nagpur, whereby the Court has condoned the delay of about 17 months. According to the petitioners, the delay has been not explained.

3. I have gone through the impugned order and record. It appears that the respondents came up with a case that the suit filed by them was transferred to some other Court on administrative grounds and they were not aware of the same. It is only when they received the notice from the City Survey Office, Nagpur in the month of July-August, 2016, for mutating the names of the legal representatives of one of the petitioners, they inquired and found that the suit, being Regular Civil Suit No.2738/2012 has been dismissed as not prosecuted vide order dated 10.07.2015.

4. The respondents led evidence in support. In the cross-examination, the petitioners brought on record that respondents had not filed notice received from the City Survey Office. The petitioners, however, did not ask the respondents' witness to place on record copy of the notice. If they intended to impeach the credibility of the witness, they ought to have asked witnesses to produce the same on

record. Having not done so, mere statement that copy of notice is not placed on record, will not be sufficient to doubt the testimony of the witness that copy of notice was received in July-August, 2016.

5. Be that as it may, the Court below has observed that though there is delay of about 17 months in filing the application for restoration of the suit, the respondents were not aware of transfer of the suit on administrative grounds. Accordingly, the Trial Court held that the respondents have shown sufficient cause in filing application belatedly. The Trial Court has also imposed costs of Rs.3,000/- while allowing the application.

6. Counsel for the petitioners could not show that this reasoning assigned by the Trial Court is contrary to the records. In other words, the counsel could not show that the respondents had knowledge of transfer of the suit.

7. That being so, I do not find this to be a fit case to entertain in supervisory jurisdiction under Article 227 of the Constitution of India. The writ petition is dismissed. No order as to costs.

(Anil L. Pansare, J.)