



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6977 OF 2025

KONDOPANT DIGAMBARRAO KULKARNI
VERSUS
LIMBAJI DAMODARE DIED, THROUGH LRS.
LAXMIBAI LIMBAJI DAMODARE DIED AND OTHERS

.....
Advocate for the Petitioner : Mr. Hrishikesh V. Tungar
.....

CORAM : S. G. CHAPALGAONKAR, J.

DATED : 08th JUNE, 2026.

PER COURT :

1. Although notice of Writ Petition was served on respondents for final disposal, none appeared. Hence, matter is taken up for final hearing.
2. The petitioner impugns order dated 05.03.2025 passed by the Civil Judge, Senior Division, Nilanga, District Latur, in MARNRJE No. 15 of 2018, whereby petitioner's application for restoration of R.D. No. 21 of 2002 came to be rejected.
3. Mr. Tungar, learned Advocate appearing for petitioner submits that in R.C.S. No. 177 of 1997, a decree for possession and mesne profits came to be passed in favour of petitioner. The decree was put to execution in R.D. No. 21 of 2002. On 07.01.2010, it was kept for taking steps against defendant/judgment-debtor. However, the learned

Court dismissed R.D. for want of steps. The petitioner filed an application for restoration of R.D. along with separate application for condonation of delay. Although the Executing Court condoned the delay, it did not restore the Darkhast.

4. According to learned Advocate Mr. Tungar, the Executing Court had adopted a hyper-technical approach and declined claim for restoration of Darkhast, observing that there was no reason for the absence of the applicant on date fixed for hearing.

5. Perusal of record indicates that Regular Darkhast was posted for taking steps, however steps were not taken by petitioner's Advocate. However, that cannot be said to be an intentional act or gross negligence on the part of applicant. The petitioner holds a decree of possession, which was put to execution. In this backdrop, for making complete justice, application ought to have been allowed.

6. In result, Writ Petition is allowed in terms of prayer clause (B).

(S. G. CHAPALGAONKAR)
JUDGE