

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

WRIT PETITION NO. 4614 OF 2024

Pooja Jinappa Patil @

Pooja Mahavir Patil

....Petitioner

Vs.

Chetal Jinappa Patil and Ors.

....Respondents

Mr. S.R. Page, Advocate for Petitioner.

Mr. Akshay Kulkarni, Advocate for Respondents.

CORAM : SACHIN S. DESHMUKH, J.

DATE : 12th MARCH 2026.

P.C.

1. The present petition raises a challenge to the order dated 12.12.2022, rendered by the learned Adhoc District Judge-1, Sangli, in Civil Miscellaneous Application No.109/2022 arising out of the order dated 30.04.2022 rendered by the learned Joint Civil Judge Junior Division, Miraj in Misc. Application No.14/2012.

2. The Petitioner is the original applicant in Miscellaneous Application No. 14/2012 before the learned Joint Civil Judge Junior Division, Miraj for grant of heirship certificate under Section 2 of the Bombay Regulation Act which is allowed vide Judgment and order dated 21.02.2012.

3. Raising an exception to the same, the Respondents herein presented Regular Civil Appeal No. 130 of 2025 along with delay

condonation before the District Judge, Sangli contending that the same is obtained by misrepresentation and in the absence of Respondents. Accepting same, the Appellate Court vide order dated 09.03.2022 set aside the order of the trial Court and remanded back the matter to be decided afresh by granting opportunity to the Petitioner herein to carry out the amendment and implead the Respondents as a party.

4. The Petitioner, however, failed to appear before the trial Court within the stipulated period and did not carry out the amendment as directed in the original application. Resultantly, the Miscellaneous Application No. 14 of 2012 came to be dismissed vide order dated 30.04.2022 by the trial Court.

5. Being aggrieved by the same, the Petitioner approached the Ad hoc District Judge, Sangli under Section 148 of the Civil Procedure Code seeking extension of the time to comply with its order which is rejected vide order dated 12/12/2022. Hence, the Petitioner is before this Court under Article 227 of the Constitution of India.

6. Learned Counsel for the Petitioner submits that the Petitioner is a married woman and was suffering with other matrimonial issues. That the delay so caused is neither deliberate nor intentional. Hence, prayed to allow the petition.

7. Learned Counsel for the Respondents has supported the order under challenge and submitted that the initial order is by suppression of facts. As such, the Petitioner has not approached this Court with clean hands and the Petition is liable to be dismissed.

8. Having heard the submissions from both the sides and upon perusal of the record, it is indicated that the Appellate Court had already remanded the matter for fresh decision to meet the ends of justice. It is only due to the lapse on the part of the Petitioner, the proceedings came to be dismissed for non-compliance.

9. Apart from aforestated aspects, considering that the Applicant is a married woman having no independent source of income, coupled with the fact that if the petitioner is not permitted to carry out the proposed amendment, it could severely affect her rights and cause serious prejudice.

10. In any event when technicalities are pitted against substantial justice, it is later which shall prevail. Therefore, I am persuaded to allow the petition. However, subject to payment of cost.

11. Hence, following order:

ORDER

- I. Writ Petition is allowed.
- II. The impugned order dated 12.12.2022, rendered by the learned Adhoc District Judge-1, Sangli, in Civil

Miscellaneous Application No.109/2022 arising out of the order dated 30.04.2022 rendered by the learned Joint Civil Judge Junior Division, Miraj in Misc. Application No.14/2012 is hereby quashed and set aside.

III. The petitioner to pay cost of Rs.15,000/- to the respondent, within a period of three weeks from today, failing which the order under challenge shall stand restored.

12. Needless to clarify that this Court has not considered any other aspect. It is for the Trial Court to consider any other issue on its own merits.

(SACHIN S. DESHMUKH, J.)

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signed by
SAJAKALI
LIYAKAT
JAMADAR
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