



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 7908 OF 2022
IN WP/1785/2014**

1. Anil S/o Nimba Patil
Age: 38 years, Occu.: Agril.,
2. Nimba S/o. Vedu Patil
Age: 75 years, Occu.: Agril.
Both R/o. Galwade (Bk), Tq.Amalner,
District Jalgaon.Applicants

Versus

1. Jayshree D/o Ganpat Patil
Age: 41 years, Occu.: Household,
R/o. Rampura Petrol Pump Nuri Mohalla
Room No.894, Ward No.7, Surat,
District : Surat (Gujarat)
2. Smt.Sakhubai W/o. Shamrao Sonawane
Age: 77 years, Occu.: Household,
R/o. Farshi Road, Amalner,
District Jalgaon.Respondents

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Advocate for the Applicants : Mr. Prakashsing B. Patil
Advocate for Respondent no.2 : Mr. Girish S. Rane

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 10 April, 2026

PRONOUNCED ON : 15 April, 2026

ORDER :-

1. This civil application is for condonation of 849 days delay caused in filing application for restoration of writ petition, which got dismissed by virtue of order of this Court dated 06-11-2017 passed by this court.



2. Learned counsel for applicant submitted that present applicants had filed Writ Petition No.1785 of 2014 challenging the order passed below Exh.58 by learned C.J.J.D., Amalner in R.C.S.No.34 of 2008 and had prayed to quash and set aside the same. That, in above writ petition, this Court on 06-11-2017 had directed issuance of fresh notice to respondent no.1 and had further directed that, on failure to take steps for service to such respondent, petition would stand dismissed without reference to the court.

3. It is further submitted that, respondent no.1 was purposely avoiding service in the above matter. Moreover, in proceedings of R.C.S.No.34 of 2008, applicant forgot to serve respondent no.1 by R.P.A.D., but unfortunately matter got dismissed for not taking steps against respondent no.1. Learned counsel further submitted that, in the interest of justice, matter is required to be restored to the extent of respondent no.1 and that applicants/petitioners would take necessary steps forthwith and even conduct the writ petition. For above reasons, delay of 849 days caused in filing application or restoration is sought to be



condoned.

4. Other side has strongly opposed on the ground that delay is huge and there is no proper explanation.

5. Heard. Perused the papers. It appears that present applicants have filed above numbered writ petition by invoking Articles 226 and 227 of the Constitution of India to quash and set aside order passed by the learned 3rd Jt.Civil Judge,J.D., Amalner in R.C.S. No.34 of 2008 allowing application Exh.58 which was filed by original plaintiffs/respondents herein to amend the plaint. Record shows that said writ petition was instituted in February 2014. Record shows that, matter appeared on board at respective times and on 04-03-2014, leave to amend petition was urged and also was allowed and this Court had issued notices to respondents, returnable on 15-04-2014 by granting stay to proceeding in R.C.S. No.34 of 2008. Thereafter, it seems that as notice issued to respondent no.1 returned unserved, this Court by order dated 06-11-2017 directed issuance of fresh notice to respondent no.1 and this order specifically shows that, apart from service by R.P.A.D.,



Humdast was permitted. Therefore, it was incumbent upon petitioners, having taken responsibility, to serve respondent no.1 personally to effect service accordingly. This Court in above order of 06-11-2017 has specifically stated that, “failure to take steps for service of respondent no.1 would result in dismissal of the writ petition without further reference to the Court”.

Directly now when matter has come up on its own turn, in spite of moving civil application in 2020 seeking condonation of delay of 849 days caused in filing application for restoration, matter is pressed now and delay is sought to be condoned. Apparently, there is no explanation in the application as to what occasioned the delay. There is no sufficient cause put forth to condone the delay caused, more particularly, the petitioners had obtained interim relief at the initial stage. Consequently, delay not being explained, and no effective steps being taken even for service of respondent no.1 for more than a decade, relief as prayed cannot be granted. Therefore, civil application stands rejected.

(ABHAY S. WAGHWASE)
JUDGE