
(2018) 03 BOM CK 0183
In the Bombay High Court
Case No : Writ Petition No.58 Of 2018

Mr. Kashinath Jairam Shetye And Other	APPELLANT
Vs	
M/s Shilpi Constructions Sapna Gardens and Other	RESPONDENT

Date of Decision : 27-03-2018

Acts Referred:

Limitation Act, 1963 — Section 14
National Green Tribunal (Practices and Procedure) Rules, 2011 — Rule 22, 22(1)

Citation : (2018) 03 BOM CK 0183

Hon'ble Judges : N.M. Jamdar, J;Prithviraj K. Chavan, J

Bench : Division Bench

Advocate : D. Lawande, R. Shivolkar, A. D. Bhobe, S. Bhobe

Final Decision : Disposed Off

Judgement

N.M. Jamdar, JÂ Â Â Â Â Â Â

1. Rule. Rule made returnable forthwith. The Respondents waive service. By order dated 20 February 2018, parties were put to notice that the petition will taken up for disposal.

2. Heard the Petitioner No.1 in person, the learned Advocate General and the learned counsel for the Respondents.

3. The Petitioners are aggrieved by the order dated 16 November 2017 passed by the National Green Tribunal whereby the M.C.A. No.75/2016 in

Review Application No.7/2016 in Appeal No.23/2015 was dismissed by the Tribunal. Though the record compilation of the petition is bulky, the issue involved in this petition is extremely narrow relating to condonation of delay.Â

4. The Petitioners had filed a Writ Petition No.1018 of 2015 in this Court. The Petition was disposed of by the Division Bench of this Court on 16

March 2016, by passing the following order:

After hearing the matter for sometime, the petitioner no.1 who is present in person seeks leave to withdraw the above Writ Petition with liberty to

file review application before the learned Green Tribunal in accordance with law.

2. Hence, petition stands disposed of as withdrawn with liberty as prayed for.

3. Needless to state that the delay, if any, in filing the application for review shall be examined by the learned National Green Tribunal on its own

merits and considering the provisions of Section 14 of the Limitation Act and after hearing the parties in accordance with law. All the contentions of

the parties on merits are left open.

5. While disposing of the petition as above, the Division Bench made a reference to the provisions of Section 14 of the Limitation Act at the time of

permitting the Petitioners to withdraw the Writ Petition with liberty to file a Review Application. When the review application was so filed by the

Petitioners along with application for condonation of delay, the Tribunal dismissed the same by referring to Rule 22(1) of the National Green Tribunal (

Practices and Procedure) Rules, 2011. The Tribunal opined that in view of Rule 22, the Tribunal has no discretion to condone the delay.

6. In the order passed by the Tribunal, there is no discussion on the applicability or otherwise of Section 14 of the Limitation Act, even though in the

first paragraph of the order, the Tribunal has reproduced the observations of the Division Bench making a reference to Section 14 of the Limitation

Act. The Petitioner in Person is therefore right in making a grievance that the provisions of Section 14 of the Limitation Act have not been

considered at all by the Tribunal. In these circumstances, we are of the opinion that the Tribunal should have considered the issue of applicability of

Section 14 of the Limitation Act and if the provision is applicable, whether the Petitioners are entitled for condonation of delay under the said

provision. We say so because the Division Bench, while granting liberty to the Petitioners to file Review Application, had made a reference to Section

14 of the Limitation Act. Since the impugned order does not consider the provisions of Section 14 of the Limitation Act, we grant liberty to the

Petitioners to make a fresh application in the Tribunal setting out the circumstances under which the Petitioners are invoking the provisions of Section

14 of the Limitation Act. The Tribunal will no doubt consider whether Section 14

of the Limitation Act is applicable to the proceedings before it and if

it is so applicable, whether the Petitioners have made out a case for condonation of delay under Section 14 of the Limitation Act.

7. Granting this liberty to the Petitioners, the Writ Petition is disposed of. Rule is made absolute in the above terms. No order as to costs.