

IN THE COURT OF SMALL CAUSES AT MUMBAI**ORDER BELOW EXHIBIT 29****IN****R.A.E. SUIT NO.762/1168 OF 2009****(CNR : MHSCA2-006670-2009)**

1) Smt. Kshama Haresh Mehta and ors. ...Plaintiffs

V/s.

Zaver Iswar ...Defendant

And

1. Smt. Bhikh Babu Solanki ... Proposed defendants

**Coram : Smt. S. R. Shinde, Judge,
Court Room No.15,
Date : 01.11.2018**

ORAL ORDER :

Perused the application. This is plaintiffs' application for extension to carry out amendment as per order dated 11.03.2016 passed below Exh.17.

2. Defendant has resisted present application on the ground that there is no sufficient reason mentioned to condone the delay of more than two years. Application deserves to be dismissed.

3. Heard advocates of both sides. On perusal of record, it transpires that earlier also plaintiffs had moved an application dated 04.04.2016 for extension of time to carry out amendment as per order

dated 11.03.2016 passed below Exh.17. That application was granted by order dated 18.11.2016. Even thereafter, plaintiffs failed to carry out the amendment. Conduct of the plaintiffs itself shows that plaintiffs are not diligent in proceeding with the suit. But, considering that plaintiff is public charitable trust and as it is always desired that a litigation shall not fail merely on technicalities, I find just and proper to allow the plaintiffs to carry out amendment but at the same time defendant needs to be compensated by imposing costs. Hence, I pass following order :

ORDER

Application is allowed subject to costs of Rs.2,000/- to be paid by plaintiffs to defendant on condition that plaintiffs shall pay the costs and carry out amendment as per order dated 11.03.2016 below Exh.17 on or before next date.

(S. R. Shinde)
Judge, C.R.No.15
01.11.2018

Dictated on : 01.11.2018
Transcribed on : 01.11.2018
Checked & signed on : 01.11.2018