

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CIVIL APPLICATION NO. 350 OF 2015

IN

MISC. CIVIL APPLICATION NO. 7 OF 2015

IN

SECOND APPEAL NO. 384 OF 2007

Dinesh Soma Patil (Bansod) VERSUS Ananda Damodar Uke & Ano.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri C. A. Joshi counsel for the appellant.
Shri S. A. Mohta Adv for the respondents 1 & 2.

CORAM : A. S. CHANDURKAR J.

DATE : OCTOBER 28, 2015.

By this application prayer is made for recalling the order dated 22.12.2014. By said order the delay in filing application for restoring second appeal came to be condoned. It is noted in the order that the non applicants were served but they do not contest the application.

On behalf of the applicants it is submitted that though the applicants were duly served with the notice issued by this Court and necessary instructions had been given to the counsel to appear in the matter, the counsel failed to mark the matter and hence he could not remain present on said date. The vakalatnama was filed on the next day. It is further stated that on 30.04.2014 a notice issued by the present applicants was duly served on the non applicant intimating dismissal of the appeal but said fact was suppressed in the application for condonation of delay.

Reply has been filed on behalf of the non

applicant opposing the application. There is also an additional affidavit filed. It is stated that the non applicant was under treatment from 28.04.2014 till 30.04.2014. The certificate issued by Doctor dated 25.10.2015 is also filed along with said affidavit.

It is an admitted fact that applicants were duly served with the notice issued by this Court before the application for condoning delay was decided. As regards issuance of notice to the non applicant and its receipt on 30.04.2014 is concerned, while said fact is asserted by the applicants same is denied by the non applicant on oath. Same is therefore a disputed question.

Considering the fact that the applicants were served when the delay was condoned there is no case made out to recall the order dated 22.12.2014. Hence application is dismissed.

JUDGE

svk