

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (CAF) NO.48 OF 2015
IN
FIRST APPEAL (ST) NO.17387 OF 2014

The Exe. Engineer, Lower Wardha Project Dvn. VIDC. Wardha

-vs-

Nagorao Mahadeo Atram & Ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri S. G. Jagtap, Advocate for appellant/applicant.
Shri A. R. Ingole, Advocate for respondent No.1.
Smt. M. N. Hiwase, AGP for respondent Nos.2 and 3.

CORAM : A.S.CHANDURKAR, J.
DATE : APRIL 29, 2015

Prayer is to condone delay in filing the first appeal.

In the application it is stated that the applicant got knowledge about passing of the judgment on 14/07/2014 when it received communication dated 06/07/2014 issued by the applicant's counsel opining that appeal need not be filed. It is further stated that after receiving copy of the judgment on 05/07/2014, it was decided to file the present appeal and after receiving the amount of court fees, the appeal came to be filed on 20 /08/2014.

The application is opposed by the non-applicant No.1 on the ground that the reasons which are assigned are not sufficient to condone the delay. It is stated that no details are given regarding the steps taken by the applicant for preferring the appeal immediately after the judgment dated 17/10/2013. Reliance is placed on judgment of learned Single Judge in *Nandkishor Kanhyalal Agrawal vs. Dhule Municipal Corporation and Ors. 2012(1) Mh.L.J.918.*

In the application there is reference to communication dated 06/07/2014. Same has been tendered for perusal. It indicates that it was opined that no appeal be filed in the present proceedings.

Considering the communication dated 06/07/2014 and the explanation which is furnished in paragraphs 2 and 3, I am satisfied that the delay as caused is not deliberate and is supported by sufficient reasons. The observations in paragraph 5 of the aforesaid judgment relied by learned counsel for the non-applicant No.1 would not apply to the facts of the present case as no particulars were given in the aforesaid case.

Considering the age of non-applicant No.1, delay in filing the first appeal stands condoned subject to costs of Rs.2000/- to be paid to the non-applicant No.1 within period of four weeks from today.

Civil application is allowed and disposed of.

JUDGE