

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

C.A.F.NO. 413/2015 IN F.A.ST.NO.21739/2014.

State of Maharashtra and another.

-VERSUS-

Dilipkumar Kamuji Khobragade and another.

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

Court's or Judge's Orders

**CORAM : B.P.DHARMADHIKARI
& P.N. DESHMUKH, JJ.**

DATE : OCTOBER 05, 2015.

Heard Mrs. B.P. Maldhure, learned A.G.P.
for the applicant, Shri I.N. Choudhari, learned Counsel
for respondent no.1 and Ms. V. Khandekar, learned
Counsel for respondent no.2.

2. Matter was considered by this Court on
31.08.2015, and we found substance in contention of
Shri Choudhari, learned counsel that there is no
explanation for delay during the period 26.11.2013 to
26.06.2014. Additional affidavit has been filed by the

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applicants on 03.10.2015. In paragraph no.2 it is stated that against judgment dated 05.10.2013, appeal was to be filed and on 01.02.2014, the Assistant Government Pleader, Gondia submitted opinion in favour of filing appeal. It is also mentioned that till 20.12.2013, the applicant was busy in election work.

3. Shri Choudhari, learned counsel states that the delay has not been satisfactorily explained.

4. Period prior to 05.10.2013 is not relevant. Appeal has been preferred on 26.04.2014, and there was no explanation for period from 26.11.2013 to 26.04.2014.

5. Now it has been pointed out that opinion of counsel to file appeal was received on 01.02.2014, therefore, the period from 24.11.2013 to 01.02.2014 has not been specifically explained. There is no explanation for period after 01.02.2014 till 26.04.2014.

6. In this situation, considering the enhancement granted and directions by this Court to the applicants to deposit 50% of the amount as awarded by the Reference Court, and as we do not see

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any mala fide, we condone the delay. However, the same is subject to payment of costs of Rs. 3000/- by the applicants to respondent no.1 within a period of 8 weeks from today.

7. If the costs are so paid, Registry to register the appeal. Civil Application is accordingly allowed and disposed of.

8. Request of Shri Choudhari, learned counsel for respondent no.1 for withdrawal of amount in deposit, shall be considered independently and on its own merits.

JUDGE

JUDGE

Rgd.