

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

CIVIL APPLN. (O) NO. 1688 OF 2015
IN
MISC. CIVIL APPLN. ST. NO. 13999 OF 2015
IN
SECOND APPEAL NO. 25 OF 1997 (D)
Shewantabai w/o Maroti Meshram
-vs-
Dilip Rajhansa Ramteke and another

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

Court's or Judge's Orders.

Mr. S.I.Khan, counsel for the applicant/appellant.

CORAM : SMT. VASANTI A. NAIK, J.

DATE : 22.04.2016.

CIVIL APPLN. (O) NO. 1688 OF 2015

By this civil application, the applicant seeks the condonation of delay of 2473 days in filing the review application.

The respondents had filed the Second Appeal bearing No.25 of 1997 and the same was allowed by this Court by the judgment, dated 08/09/2008. The said judgment, dated 08/09/2008 is sought to be reviewed by the applicant by filing the review application on 17/07/2015.

It is stated on behalf of the applicant that the inordinate delay in filing the review application is due to the fact that the applicant was informed by a local lawyer that the applicant would receive fresh summons before the hearing of the second appeal. It is submitted that though the applicant desired to engage a counsel for defending the second appeal, the applicant did not do so, as she was under a *bona fide* impression that she would receive fresh notices

from the High Court. It is stated that since the delay is satisfactorily explained, the same needs to be condoned.

On a reading of the application and on hearing the learned counsel for the applicant, it appears that the applicant has not made out 'sufficient cause' for condoning the huge delay of 2473 days in filing the review application. The only explanation for the inordinate delay in filing the review application is tendered in paragraph No.5 of the application for condonation of delay. It is stated that the applicant was not aware about the pendency of the second appeal and after receipt of the notice of the second appeal, she had contacted a local lawyer, who have told her that she would receive fresh summons. It is stated that under a *bona fide* belief that the applicant would receive fresh summons/notice, a counsel was not engaged. The explanation tendered by the applicant in paragraph No.5 of the application for condonation of delay is not sufficient for explaining the huge delay of 2473 days. It is difficult to believe that the applicant was informed by the local lawyer that she would be informed again by the High Court in the matter. Also, it is necessary to note on a reading of the order-sheet in the second appeal that notice was issued to the applicant before admission of the second appeal on 27/06/1997 and after the said notice was duly served on the applicant, the second appeal was admitted on substantial questions of law on 28/08/1998. It further appears that in 2003 the applicant had filed an application for certain directions to the appellant in the second appeal. If such an application was filed in the year 2003 and the statement made by the applicant in paragraph No.5 that she did not engage a lawyer, as she was informed by the local lawyer that a fresh summons would be served on her appears to be false. It appears from the office notes of the year 2003 that the applicant was represented by Shri Narnaware, Advocate in the second appeal and the said counsel had appeared on behalf of the applicant in the year 2003-2004, i.e. during the pendency of the

second appeal. I find that the case of the applicant in paragraph No.5 of the application for condonation of delay stands falsified by the office notes and order-sheets in the second appeal. Since the reason stated in paragraph No.5 of the application for condonation of delay is false, the application is liable to be dismissed.

Hence, the prayer made in the civil application is rejected. The civil application is disposed of accordingly.

MISC. CIVIL APPLN. ST. NO. 13999 OF 2015

In view of dismissal of the Civil Application (O) No.1688 of 2015, the miscellaneous civil application stands disposed of.

JUDGE

KHUNTE