

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

Civil Application [CAO] No.77 of 2014
in
Civil Application [MCA] No.22716 of 2013
in
Second Appeal No.419 of 1994

(Sahebrao Jairam Chavan and another
vs.
Umashankar Basappa Hajabe, through L.Rs.)

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

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Court's or Judge's Orders

Shri R.N. Ghuge, Advocate for respondent Nos.1, 2 & 4 to 11.

CORAM : A.S. CHANDURKAR, J.
DATE : APRIL 18, 2016.

The prayer is to condone delay of 1797 days in filing the application for setting aside the order dated 17/12/2008. By said order dated 17/12/2008, this Court had dismissed the appeal as having abated since the sole respondent had expired on 19/12/2005. In the application, it has been stated that there was a communication gap between the applicants and their counsel, which is the result of delay being caused.

On 11/04/2016, time of one week was granted at the request of learned counsel for the applicants by way of last chance, as it was informed that the applicants had not given any instructions to the learned counsel. Today, there is no appearance on behalf of the applicants.

Reply has been filed on behalf of non-applicant Nos.10 and 11 opposing the prayers made in the application. It has been stated that after dismissal of the second appeal, the decree has been executed and the non-applicant Nos.10 and 11 have been placed in possession on 02/12/2013. It is further submitted by the learned Counsel for the non-applicant Nos.10 and 11 that the affidavit in support of the prayer for condonation of delay has been sworn by one Ramesh Jayram Chavan, though he is not party to the proceedings. There is also no sufficient cause shown for condoning the delay.

Perusal of the application for condonation of delay indicates that no sufficient cause has been shown for the delay of about 1797 days. The averments in paragraph 4 of the application are vague and without any details. Though the decree stands executed, the applicants have not been diligent in seeking restoration of the appeal. In absence of any sufficient cause for delay being shown, the same cannot be condoned.

Hence, the civil application stands rejected.

Consequently, the pending civil applications also stand dismissed.

JUDGE

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