

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

CIVIL APPLN. (O) NO. 2108 OF 2016

IN

M.C.A. ST. NO. 25780 OF 2016

IN

LETTERS PATENT APPEAL NO. 74 OF 2007

IN

WRIT PETITION NO. 933 OF 1992 (D)

M.S.R.T.C., thr.its Divisional Controller, Nagpur Division, Nagpur.

-vs-

Abdul Rashid s/o Sk. Rashid

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

Court's or Judge's Orders.

Mr.S.C.Mehadia, counsel for the applicant/appellant.

CORAM : SMT. VASANTI A NAIK &
MRS. SWAPNA JOSHI, JJ.

DATE : 21.12.2016.

By this civil application, the applicant/appellant seeks the condonation of delay of more than nine years in setting aside the order dated 30/07/2007, dismissing the letters patent appeal for not taking steps to serve the respondents within the stipulated time.

We are not inclined to condone the inordinate delay in filing the restoration application. It appears from the record of the letters patent appeal that the letters patent appeal was not prosecuted diligently by the applicant. There was a delay in filing the letters patent appeal and the delay was condoned, subject to payment of costs. It appears that costs were deposited during the extended period. The appellant was directed to take steps to serve the respondents within two weeks, failing which the letters patent appeal is liable to be dismissed. No steps were, however, taken up by the appellant for effecting the service on the respondents. This court, therefore, by the order dated 30/07/2007, dismissed the letters patent appeal in default. Nothing was done by the appellant for more than nine years. Since the

letters patent appeal was pending for admission, it was necessary for the Corporation to have made enquiries within a reasonable time after filing the letters patent appeal. However, this was not done. For the first time, it is stated that the Corporation contacted its counsel on 16/12/2016 for providing necessary details and information. This shows that there was absolute lethargy on the part of the Corporation in prosecuting the letters patent appeal. The inordinate delay in filing the application for restoration of the letters patent appeal is not explained satisfactorily. The statement that the Corporation contacted its counsel in the year 2016 in respect of the status of the appeal itself shows that the Corporation was absolutely negligent in prosecuting the appeal.

Since the applicant-Corporation has not pointed out any sufficient cause for condoning the inordinate delay in filing the application for restoration of the letters patent appeal, we reject the prayer made in this civil application. The civil application stands rejected.

JUDGE

JUDGE