

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1)

CA NO.2766 OF 2016

**907 CIVIL APPLICATION NO. 2766 OF 2016
IN FAST/6012/2016**

SANJAY HARIBHAU WAGHMARE
VERSUS
SURESH BABURAO RAINULE AND ANR

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Advocate for Applicant : Mr.Shinde Manoj D.

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CORAM : P.R. BORA, J.
Dated: June 23, 2017

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PER COURT :-

1. Though respondent nos. 1 and 2 both are duly served, none of them has entered appearance in the matter.
2. Delay of 585 days has occurred in filing the present appeal by the present appellant. The appellant had filed the claim petition which has been dismissed by the impugned judgment and award. Shri Shinde, learned Counsel appearing for the applicant / appellant submitted that because of disablement incurred by the applicant out of accidental injuries, he was unable to take necessary steps and was also lacking funds and could not arrange for amount of court fees and for these reasons, the appeal could not be filed within the period of limitation. Learned Counsel, therefore, prayed for condoning the delay and to give an opportunity to appellant to agitate his matter on merits.

agp/-

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(2)

CA NO.2766 OF 2016

3. I have considered the submissions made on behalf of the applicant. I have also perused the application filed by the applicant. On perusal of the application I find that the reasons which are assigned by the appellant are sufficient to condone the delay. However, it appears to me that the applicant cannot be made entitled for the interest of the period of delay in the event his appeal is allowed on the amount of compensation that may be awarded in his favour. I am, therefore, inclined to pass following order:

ORDER

1. The Civil Application is allowed. The delay caused in filing the appeal is condoned. Appeal be registered in accordance with law. Civil Application stands disposed of.

2. After registration of the appeal, issue notice to the respondents returnable after four weeks.

3. It is clarified that in the event appeal is allowed and the appellant is held entitled for certain amount of compensation, he will not be entitled for interest on the said amount for the period of delay i.e. 585 days. Copy of the present order be kept in the papers of appeal.

(P.R. BORA, J.)

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