

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

Civil Application (CAS) No.58 of 2016

In

Second Appeal Stamp No.54 of 2016

(Yadavrao s/o Kashinath Wahane v. Sadashiv s/o Rajaram Somkuwar)

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Shri P.W. Jasutkar, Advocate for Applicant/Appellant.
Shri Prasad Dharaskar, Advocate for Respondent.

Coram : R.K. Deshpande, J.

Date : 23rd February, 2017

This is an application for condonation of 269 days' delay caused in filing a second appeal. In para 3 of the application, the following reasons are given :

“3. That the appellant is poor agriculturist. Due to continuous heavy loss in agricultural land, the financial condition of appellant was very poor in the year 2015. Further, he was under treatment of doctor for severe dental pain during period of 06.08.2015 to 14.09.2015. On 20.01.2015, the appellant applied for certified copy of judgment and decree. He received said certified copy on 10.02.2015. But poor financial condition and health problem, the appellant could not approach to Counsel for

filing appeal during the period of 10.02.2015 to 31.12.2015. He approached to counsel on 01.01.2016 for filing appeal. Due to abovesaid difficulties, the appellant could not file appeal within limitation against the impugned judgment and decree. There is sufficient cause for not preferring the appeal within prescribed period. Therefore, it is necessary to condone delay of 269 days for filing appeal. Otherwise applicant will suffer irreparably. Hence this Application.”

The respondent has filed reply opposing the application for condonation of delay and denying the averments made above. The judgment of the lower Appellate Court was delivered on 1-1-2015. The appellant claims to be under the treatment of doctor from 6-8-2015 to 14-9-2015. In spite of obtaining certified copy on 10-2-2015, the appeal was filed on 4-1-2016. The delay from 10-2-2015 to 6-8-2015 and from 14-9-2015 to 4-1-2016 is not explained. The reason given for condonation of delay is not acceptable.

The application for condonation of delay in filing the appeal is, therefore, dismissed.

Judge.