

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

Civil Application [CAO] No. 124 of 2017

IN

Misc. Civil Application St. No. 632 of 2017

IN

Second Appeal No.437 of 2013

[Smt. Shantabai Kashiram Kamble Vs. Madhusudan Sarangdhar Barde & another]

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

Court's or Judge's orders

Mr. Gaurav Singh Sengar, Adv., for the applicant.
Mr. V.N. Patre, Adv., for respondent no.1.

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CORAM : A. S. CHANDURKAR, J.

DATE : 07th July, 2017

Prayer is to condone delay in filing restoration application. In the application, it is stated that the Second Appeal was dismissed on account of failure to file a paper-book. The applicant being an old lady and suffering from ailments, she could not come to Nagpur to take necessary steps. As she was alone looking after the litigation, she has prayed for the delay to be condoned.

The application is opposed by the learned counsel for the respondent no.1 on the ground that the

delay is inordinate. After obtaining stay to the execution of the decree, the applicant has been negligent and has been prolonging the proceedings.

Perused the application along with documents filed therewith.

It can be seen that the applicant is a senior citizen who is alone prosecuting the proceedings. Though it is a fact that paper-book was not filed within specified period, an opportunity deserves to be granted to contest the proceedings on merits. Hence, subject to applicant paying costs of Rs.1,000-00 [rupees one thousand only] to the respondent no.1 within a period of six weeks from today and also filing a paper-book within said period, the delay stands condoned.

Civil Application is allowed and disposed of.

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Misc. Civil Application No.632/17 :

For reasons mentioned in the application, the same is allowed. The Second Appeal is restored to file.

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Second Appoeal No. 437 of 2013 :

If paper-book is not filed within a period of six

weeks from today, the appeal shall stand dismissed without reference to Court.

Judge

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