

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

CAF NO.1320/2014 IN FIRST APPEAL ST. NO.2039/2014

[VIDC .vs. Kausalyabai Harishchandra Kolhekar and others]

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

Court's or Judge's orders

Shri S.K. Bhoyar, Advocate for applicant-appellant,
Shri Prasad Dharaskar h/f Shri Anand Parchure, Adv. for R-1,
Ms. H.N. Jaipurkar, AGP for respondent nos.2 and 3.

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CORAM : KUM. INDIRA JAIN, J.

DATED : SEPTEMBER 18, 2017.

Heard.

Prayer is to condone delay in filing the appeal. Reasons for delay are stated in paragraph 4 of the application. Application is opposed by the learned counsel for respondent no.1 on the ground that applicant has not explained delay properly and was not diligent in prosecuting the first appeal. Reliance is placed on the judgment of the Hon'ble Supreme Court in **State of Uttar Pradesh through Executive Engineer and another .vs. Amar Nath Yadav [(2014) 2 SCC 422]** and the order dated 23.3.2015 passed by the Division Bench of this Court in Civil Application (CAF) No.59/2015 in First Appeal (ST) No.21169/2014

In response to the submissions made on behalf of respondent no.1, learned counsel for applicant submitted that in the similar situation, this court, vide order dated 30.10.2015 passed in Civil Application (F) No.2103/2014 in First Appeal (ST) No.2125/2014 and in Civil Application (F)

No.531/2014 in First Appeal (ST) No.2045/2014 dated 25.2.2015, condoned the delay. The learned counsel submits that before the Division Bench, as delay was not explained, prayer to condone delay was rejected. It is submitted that in the present case, applicant has explained delay in paragraph 4 of the application and considering the previous orders referred above, delay needs to be condoned.

Considering the reasons stated in paragraph 4 of the application and also to avoid denial of justice, this court is inclined to condone delay, subject to costs of Rs.2,000/- to be paid to respondent no.1, within a period of four weeks from today.

Application is allowed and disposed of in the above terms.

JUDGE