

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

CIVIL REVISION APPLICATION NO.50 OF 2017

Shri Atul s/o Premchand Tajpuria

..VS..

Shri Mukesh s/o Raghunath Lokhande and ors

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

Court's or Judge's Order

Shri H.I. Kothari, Counsel for the applicant.

CORAM : N.W. SAMBRE, J.

DATED : APRIL 12, 2017.

Heard learned counsel Shri H.I. Kothari for
the applicant.

The present applicant, plaintiff, in Special
Civil Suit No.516 of 2010 preferred a suit for specific
performance of contract which came to be decreed
against defendants by judgment dated 7.12.2015,
passed by learned Civil Judge Senior Division, Nagpur.

Misc. Civil Application No.513 of 2016 was
preferred before learned District and Sessions Judge,
Nagpur, questioning judgment and decree passed in
Special Civil Suit No.516 of 2010, seeking condonation
of delay of 60 days caused in filing appeal. Learned
District and Sessions Judge, by order impugned dated
25.1.2017, had condoned the delay. As such, present
civil revision application is filed.

In support of contentions, learned counsel Shri H.I. Kothari urges that competence in law, on the part of appellant to prefer an appeal and an application for condonation of delay, is an issue which has not been appreciated by learned District Judge while condoning delay. According to him, appellant/defendant No.3, cannot narrate reasons for condonation of delay on behalf of other defendants and as such, application should have been rejected.

Having perused order, which is questioned in present civil revision application, I hardly see any reason to interfere with order of condonation of delay since learned District Judge has exercised his discretion as vested in him lawfully.

Apart from above, issue as regards competency of defendant No.3 to said reasons for condonation of delay, which were within knowledge of other defendants, is such an issue which will be of hardly any consequence as admittedly defendant No.3 was holding power of attorney of appellants/defendant Nos.1 and 2.

No case for interference, particularly for failure to exercise discretion, is made out. The civil revision application lacks of merits and is rejected.

JUDGE

!! BRW !!

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