

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

Civil Application (O) No.269/2021

In

M.C.A. St. No.4506/2021

In

First Appeal No.526/2013 (D)

(Bajaj Allianz General Insurance Co. Ltd V Sandesh Jinturkar and
another)

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

Court's or Judge's

Shri D.N. Kukday, Adv for appellant.

CORAM : S.M. MODAK, J.

DATE : 25-03-2021

Heard learned Advocate Shri Kukday for the appellant.

2. Appeal came to be dismissed as per the order dated 06-09-2017, for want of filing paper book. The appellant now wants to withdraw the appeal. Pursis bearing St. No.01/2021 to that effect is filed. As the appeal is dismissed, the same cannot be withdrawn without being restored.

3. There is a delay of 1299 days in filing an application for restoration. Apart from that there is a application of the original claimant bearing Civil Application No.2871/2017 for withdrawal. The appellant is consenting for the said withdrawal.

4. In fact, notice could have been issued on restoration application but the facts do not warrant to issue notice because the appellant wants to withdraw the appeal. Hence, the order :-

ORDER

- (a) The application for condonation of delay is allowed.
- (b) The application for restoration of the appeal is allowed.
- (c) The order dated 06-09-2017 is set aside.

First Appeal No.526/2013 along with
Civil Application No.2871/2017

The appellant has deposited the decretal amount along with statutory deposit before the Claims Tribunal, Buldhana. They are consenting for disbursal of the amount to the original claimant. Hence, the order :-

ORDER

- (a) The appeal is disposed of as withdrawn.
- (b) The appellant be refunded the Court fee as per the Rules.
- (c) The M.A.C.T., Buldhana is directed to disburse the amount deposited with them to the original claimant as per the award dated 07-01-2011.
- (d) The office is directed to transfer the statutory deposit or any other amount along with accrued interest to the M.A.C.T., Buldhana, if any amount is lying in this Court.

(S.M. Modak, J.)