

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

CIVIL APPLICATION NO. 37 OF 2017
IN APPEAL AGAINST ORDER ST.NO.12173 OF 2017
(Gajanan s/o Narayan Khadse vs. Sau. Vaishali w/o Gajanan Khadse)

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

Shri M.I. Dhattrak, Advocate for applicant.
Shri S. Raisuddin, Advocate for respondent.

CORAM : P.N. DESHMUKH, J.

DATED : NOVEMBER 21, 2017

Heard learned Counsel for the parties.

This application is filed for condonation of 7 days' delay caused in filing appeal against order dated 23/2/2017 passed in Regular Civil Appeal No. 78/2014 by Ad hoc District Judge-I, Kelapur.

For the grounds mentioned in the application, delay is found satisfactorily explained and, therefore, same is condoned. The civil application is allowed.

CIVIL APPLICATION NO.38 OF 2017

Heard learned Counsel for the parties.

Shri Dhattrak, learned Counsel for applicant, submits that proceedings being Hindu Marriage Petition No. 24/11 came to be remitted back to trial Court by the first appellate Court for fresh trial. It is contended that in fact appellate Court wanted additional issue only to be

decided and as such, should have remitted matter for only deciding additional issue. However, without adopting such recourse, appellate Court has remitted the matter for fresh consideration.

The aforesaid submissions are found duly substantiated from para 23 and operative of the impugned judgment. In that view of the matter, there shall be stay to effect and operation of the impugned judgment and decree dated 23/2/2017 passed by Ad hoc District Judge-1, Kelapur in Regular Civil Appeal No.78/2015 by which Hindu Marriage Petition No.24/2011 is remitted back to trial Court for re-consideration.

JUDGE

khj