

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

CIVIL APPLICATION (O) NO.736 OF 2017
AND
M.C.A. NO.12382 OF 2017
IN
SECOND APPEAL NO.341 OF 2003

MOHAMMAD SADIQ S/O MOHAMMAD HARUN THROUGH LRS
VS
FAHIMUDDIN INAMDAR S/O MOHD. GULAM MOHIDDIN 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 A. M. Ghare, Advocate for the appellants.

CORAM : A.S. CHANDURKAR, J.
DATED : JUNE 27, 2017.

Notice on both the applications is made returnable forthwith.

Shri P. S Chavhan, learned Counsel waives notice on behalf of respondent no.1 and Shri R. S. Kalangiware, Advocate waives notice on behalf of respondent nos.2 to 4.

Prayer is to condone delay in filing the application for restoration of the second appeal. It is also prayed that the second appeal be restored to file. In the application, it is stated that out of common judgment dated 28-2-2003, Second Appeal Nos.341/2003 and 343/2003 came to be filed. The paper book was filed in Second Appeal No.343/2003. On account of non filing of paper book in Second Appeal

No.341/2003, the same came to be dismissed. It is submitted that since the appeal arises out of common judgment and the other appeal is still pending, the present appeal may be restored for adjudication on merits.

The prayer is opposed by the learned Counsel for the respondents. It is submitted that the applicants have not been diligent in prosecuting the proceedings.

Considering the fact that both the appeals were required to be heard together and paper book was filed in Second Appeal No.343/2003, I find that the adjudication on merits of the appeal is necessary. Hence, accepting the reasons mentioned in the application and subject to paying costs of Rs.1000/- to the High Court Legal Services Sub Committee by 30-6-2017, both the applications are allowed. The delay stands condoned and Second Appeal No.341/2003 is restored to file.

Put up for hearing along with Second Appeal No.343/2003 in the week commencing 3rd of July, 2017.

JUDGE