

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Civil Application [CAO] No. 1213 of 2017
IN
Misc. Civil Application [Resto.] St. No. 15564 of 2017
IN
Second Appeal No. 134 of 2000
[Mahadeo Ramchandra Watkar (dead) through L.Rs. Vs. Ganesh
Vithaldas Chandak & another]

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

Court's or Judge's orders

Mr. A. V. Khare, Adv., for the applicants.
Ms. Gupta, Adv., for non-applicants.

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CORAM : A. S. CHANDURKAR, J.

DATE : 19th December, 2017

By this application, it is prayed that the delay in filing the restoration application be condoned.

The Second Appeal was dismissed for want of prosecution on 13th April, 2016. According to the applicants, as the appeal was admitted, they were not in contact with their counsel. In the month of May, 2017, the applicants enquired with their counsel who then found that the appeal had been dismissed. After applying for certified copy, the present application came to be filed on 17th July, 2017.

The prayer for condoning delay is opposed by the learned counsel for the non-applicants on the count that

the applicants have not been diligent in prosecuting the appeal. The date when they got knowledge about dismissal of the appeal has not been disclosed. Though certified copy was received on 9th May, 2017, the present application has been filed belatedly.

Perused the application. The appeal had been dismissed on account of absence of the applicants' counsel. The applicants cannot be blamed for the same. After making enquiries in the month of May, 2017, present application has been filed in July, 2017. Hence, I find sufficient cause for condoning the delay. Delay is accordingly condoned.

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Misc. Civil Application St. No. 15564/2017 :

By this application, it is prayed that the appeal which had been dismissed for want of prosecution be restored. It is stated that the appeal was dismissed for absence of the applicants' counsel for which they cannot be blamed. The application is opposed by the learned counsel for the non-applicants on the ground that the applicants have not been diligent in prosecuting the appeal.

Accepting reasons mentioned in the application, the same is allowed. Order dated 13th April, 2016 is recalled and the Second Appeal is restored to file.

Misc. Civil Application is disposed of.

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Second Appeal No. 134/2000 :

Put up for hearing in the week commencing 15th January, 2018. Needless to state that as order dated 13th April, 2016 stands recalled, earlier interim orders would revive.

Judge

[hedau]