

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

CIVIL APPLICATION NO.1632/2017 IN M.C.A.ST.NO.17170/2017
IN REJECTED S. A. NO.724/2017

Smt. Shantabai w/o Kawaduji Mendhe & Ors. ..vs.. Shri Kashiram s/o
Narayan Bhagat (Deceased) thr. His LRs.

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

Court's or Judge's orders.

Mr. M. B. Turankar, Advocate for applicants.

CORAM : V.M. DESHPANDE, J.
DATED : NOVEMBER 28, 2017

Heard Mr. Turankar, Advocate for applicants.

Miscellaneous Civil Application Stamp
No.17170/2017 is for restoration of the second appeal by
setting aside the order dated 03.08.2017 passed by Registrar
(Judicial) and since there is seven day's delay in moving the
said application, Civil Application No.1632/2017 is filed for
condonation of delay.

The second appeal was filed within time by the
appellant challenging the judgment and decree dated
22.11.2016 passed in Regular Civil Appeal No.40/2011
arising out of judgment and decree passed in Regular Civil
Suit No.1067/2004 dated 30.09.2010.

The Registrar raised certain objections when the
second appeal was on stamp. Note-sheet shows that time
was granted by the Registrar (Judicial) to remove the office
objections. However, the office objections were not removed

within the stipulated time. Consequently, the stamp was refused and the appeal was dismissed.

Though the applicants and their counsel were under bounden duty to remove the office objections within stipulated period and though the attitude on the part of the applicants and their counsel in not removing the office objections within the stipulated period is deprecated, in my view, the course of justice should not be denied to the litigant to get the matter decided on merit. Hence, I am of the considered view the case of the applicants should not be thrown in the dustbin for non removal of office objections. That can be taken care of by imposing costs on the applicants.

In view of above, both the applications are allowed. The delay of seven days is condoned. Order revoking the stamp is set aside. Office is directed to register the second appeal on a condition that the applicants shall pay Rs.1000/- as costs to the High Court Bar Association, Nagpur and remove the office objections till 21.12.2017. The applicants shall place a receipt of payment of costs on record.

The applications stand disposed of.

JUDGE