

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

CIVIL APPLICATION (CAO) NO.1972 OF 2015

AND

MCA ST.NO.18309 OF 2015

IN

SECOND APPEAL NO.235 OF 2013

Mohd. Bashirkhan s/o Bahuddin Khan

..VS..

Abdul Aziz s/o Abdul Wahab (dead) thr. LRs and ors

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

Court's or Judge's Order

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Shri S.O. Ahmed, Counsel for the applicant.

Shri Makrand Rajkondawar, Counsel for the non-applicants.

CORAM : V.M. DESHPANDE, J.

DATED : NOVEMBER 27, 2017.

1. Heard learned counsel Shri S.O. Ahmed for the applicant and learned counsel Shri Makrand Rajkondawar for the non-applicants.

2. Second Appeal No.235 of 2013 was admitted since it was involving a substantial question of law.

3. On 26.3.2015 conditional order was passed to the effect that if within a period of eight weeks from the said date private paper-book is not filed, the second appeal shall stand dismissed automatically without further reference to the Court.

4. It appears that during this stipulated period, the appellant failed to file the private paper-

book. Consequently, the appeal was dismissed.

5. Misc. Civil Application St.No.18309 of 2015 is filed by the applicant for restoration of the second appeal. However, there is a delay of 67 days in moving the said application. Consequently, Civil Application No.1972 of 2015 for condonation of delay is filed. The applications are affirmed by the registered clerk of learned counsel Shri S.O. Ahmed for the applicant.

6. Though the applications are vehemently opposed by filing replies and also oral submissions, it is my considered view that litigants should not be deprived of getting their matters adjudicated on merits for non-filing of the private paper-books, especially when this Court is aware that in many of the cases though the private paper-books are filed, this Court is not in a position to take those appeals for final hearing.

7. Consequently, both applications are allowed.

8. Delay is condoned. The appeal is restored subject to appellant depositing costs of Rs.1,000/- to the High Court Bar Association at Nagpur within a period of two weeks from today and the receipt showing the payment of costs shall be placed on record.

9. Learned counsel Shri S.O. Ahmed for the

applicant submits that the private paper-book, which is ready, will be filed within a period of three weeks from today.

JUDGE

!! BRW !!

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