

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

Civil Application (CAO) No.1994 of 2016

In

Misc. Civil Application Stamp No.19253 of 2016

In

Rej. Second Appeal No.405 of 2015

(Anandrao s/o Krushnaji Bhange v. Vasant s/o Gopalrao Ballal)

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

Shri V.R. Thote, Advocate for Applicant.

Coram : R.K. Deshpande, J.

Date : 23rd February, 2017

This application is for condonation of 419 days' delay caused in filing application for restoration of second appeal along with Misc. Civil Application Stamp No.19253 of 2016 for restoration of second appeal.

For the reasons stated in both these applications, I am satisfied that a sufficient cause is made out for condonation of delay and a case is also made out for restoration of second appeal.

Hence, both these applications are allowed. The second appeal is restored.

The appellant is the original defendant, against whom a decree is passed for permanent injunction restraining him from interfering or using the lane or making construction or

encroachment in 5½ feet lane to the eastern side of the house of the plaintiff. According to Shri Thote, the learned counsel appearing for the appellant/original defendant, the appellant is not making any kind of construction over the common lane and he does not intend to encroach upon the common lane. He, however, submits that the decree has been passed holding that the plaintiff is the owner of this common lane.

Issue notice for final disposal of the matter, to the respondent, returnable on 15-6-2017.

The appellant is permitted to join “Gram Panchayat Thanegaon” as party-respondent No.2 in this appeal. Necessary amendment be carried out within a period of one week from today.

Also issue notice to the added respondent No.2, returnable on 15-6-2017.

The added respondent No.2 to file an affidavit as to whether the lane on which ownership is claimed by the plaintiff is a common lane or not as per the record of Gram Panchayat.

Judge.

Lanjewar