

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

Civil Application (CAS) No.199 of 2016

In

Second Appeal Stamp No.21281 of 2014

(Avinash s/o Rambhau Satao v. Nitin s/o Madhukarrao Shinde)

Office Notes, Memoranda of Coram, appearances, Court's orders or directions and Registrar's order	Court's or Judge's orders
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Shri P.A. Gode, Advocate for Applicant/Appellant.
Shri P.S. Chawhan, Advocate for Appellant.

Coram : R.K. Deshpande, J.

Date : 15th February, 2017

Civil Application (CAS) No.199 of 2016 :

This application seeks condonation of 154 days' delay caused in filing the second appeal.

Notice of this application was issued to the respondent on 4-3-2016. There is no reply filed. After going through the averments made in the application, which remain uncontroverted, I am satisfied that a sufficient cause is made out for condonation of delay. Hence, the delay caused is condoned.

The civil application is allowed and disposed of.

Second Appeal Stamp No.21281 of 2014 :

Heard Shri Gode, the learned counsel for the appellant, on merits of the matter.

The Trial Court dismissed the suit for eviction and possession of the suit premises. The lower Appellate Court has also dismissed the appeal.

The only question, which is required to be considered, is whether the notice issued under Section 106 of the Transfer of Property Act was legal, valid and proper. The lower Appellate Court holds that six months' notice ought to have been given as per the term in the agreement. Perusal of the agreement does not reveal that any such term is included.

Admit, on the following substantial question of law :

Whether the Courts below were right in rejecting the claim for eviction and possession, holding that the notice was not legal and valid?

The learned counsel for the respondent waives service of notice.

Filing of private paper-book is dispensed with.

Call for R & P.

Put up the matter after three months for final disposal.

Judge.

Lanjewar