

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Civil Application [CAS] No. 411 of 2016
IN
Second Appeal No.23111 of 2015
[Maroti Tukaram Bhagat (dead) through L.Rs. Vs. Dilip Chhaganlal Munot]

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

Court's or Judge's orders

Mr. R. S. Kurekar, Adv., for the applicants.
Mr. Avinash Gharote, Adv., for the respondent.

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CORAM : A. S. CHANDURKAR, J.

DATE : 21st June, 2017

Prayer is to condone delay in filing the Second Appeal.

In the application, it is stated that the proceedings were initially filed in this Court, after which they were transferred to the District Court at Wardha. The notice in those proceedings was sent at the address of the appellant at Hinganghat, while in the execution proceedings initiated by the respondent, the original defendant was sought to be served at a different address. It is, therefore, submitted that the delay as caused is not deliberate and hence deserves to be condoned.

The application is opposed by the learned

counsel for the respondent on the ground that both the addresses were mentioned in the cause title of the appeal and, therefore, it could not be said that they were served at a wrong address.

Perusal of the judgments of the trial Court as well as the appellate Court indicates that the present respondent was the original plaintiff whose suit was partly decreed against which he filed an appeal. In the suit as well as in the appeal, both the addresses of the original defendant were shown. His presence at the other address than the one on which he was sought to be served is possible. Considering statements made on oath by the applicants and as the reasons assigned are acceptable, the delay in filing the Second Appeal stands condoned.

Civil Application is allowed and disposed of.

Judge