

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

CIVIL APPLICATION (CAO) NO.1699 OF 2017

AND

MCA ST.NO.24276 OF 2017

IN

SECOND APPEAL ST. NO.18233 OF 2017

Nilkanth @ Kailash s/o Bhagwat Dakhore

..VS..

Sou. Sunita w/o Nilkanth Dakhore and anr

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

Court's or Judge's Order

Shri R.S. Kurekar, Counsel for the applicant.

CORAM : V.M. DESHPANDE, J.

DATED : NOVEMBER 23, 2017.

1. These applications are decided by this common order.
2. Heard learned counsel Shri R.S. Kurekar for the applicant.
3. The applicant filed the second appeal challenging judgment and decree dated 2.5.2011 passed in Special Civil Suit No.70 of 2008 by learned Civil Judge Senior Division at Washim which was confirmed by learned District Judge-2 at Washim in Regular Civil Appeal No.113 of 2012 on 5.7.2017.
4. After the appeal was presented, during scrutiny the Registry raised certain objections.
5. During stipulated time given by the

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Registrar (Judicial), the applicant or his counsel failed to remove those objections.

6. On 28.9.2017 conditional order was passed by the Registrar (Judicial) to the effect that if those objections are not removed within a period of fourteen days, the registration shall deem to be refused.

7. Since those objections were not removed, as per order dated 28.9.2017, the registration of the second appeal stands refused. Consequently, Misc. Civil Application St. No.24276 of 2017 is filed for restoration of the second appeal. There is a delay of 26 days in moving the application for restoration of the second appeal. Civil Application No.1699 of 2017 for condonation of delay is also filed.

8. Both these applications are on affidavits.

9. Though it was obligatory on the part of the applicant and his counsel to remove those objection within the stipulated period and though the Court is not approving attitude on the part of the applicant and his counsel not to remove the office objections, it is my considered view that the process of justice should not be denied to the litigants for non-removal of office objections.

10. Learned counsel Shri R.S. Kurekar for the applicant submits that he will remove the office

objections within a period of two weeks from today.

11. Statement accepted.

12. In that view of the matter, I allow both these applications.

13. The civil application for condonation of delay is allowed. Delay is condoned. The conditional order passed by the Registrar (Judicial) stands revoked. The Registry is directed to register the appeal.

14. Both the applications are allowed subject to payment of costs of Rs.2,000/- to be paid with the High Court Bar Association at Nagpur within a period of one week from today and receipt showing the costs should be placed on record.

15. The civil application and the misc. civil applications are allowed and disposed of accordingly.

JUDGE

!! BRW !!

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