

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Civil Application [CAO] Nos.236, 237, 238, & 240 all of 2017
IN
Misc. Civil Application 25474 of 2016
IN
Second Appeal No.78 of 2005 [decided]
[Chandrabhan Shrawan Balpande Vs. Jagorao Bajirao Balpande & another]

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

Court's or Judge's orders

Mr. H. M. Bobade, Adv., for the applicants.
Mr. A. S. Sonare, Adv., for non-applicants.

CORAM : A. S. CHANDURKAR, J.

DATE : 28th June, 2017

By these applications, it is prayed that the legal heirs of the sole appellant be permitted to be brought on record after setting aside the abatement and condoning the delay. It is stated that the sole appellant expired on 6th June, 2009. The appellant's son also died on 8th January, 2015, after which the present application came to be moved.

These applications are opposed by Shri Sonare, learned counsel for the non-applicants. According to him, the applicants were not at all diligent in prosecuting the proceedings. The delay, therefore, does not deserve to be condoned.

The reasons assigned are attributable to the counsel who was earlier representing the appellant. The appeal was dismissed for non-filing of the paper-book. The reasons mentioned in the applications appear to be acceptable and delay does not appear to have been deliberately caused.

Hence, accepting the reasons mentioned in the applications, the same are allowed. After setting aside the abatement, the legal heirs of the appellant are permitted to be brought on record. Amendment be carried out within a period of one week from today.

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Civil Appln. No. 235 of 2017 & Misc. Civil Appln. St. No. 25474 of 2016 :

By these applications, it is prayed that the delay in filing the restoration application be condoned and thereafter the appeal be restored to file.

It is stated in the application that the appeal was dismissed for non-filing of paper-book along with costs of Rs. 200/-. As the appellant's counsel left Nagpur for practising at New Delhi, the aforesaid order was not complied with.

For the reasons recorded in the order passed in Civil Application [CAO] Nos.236, 237, 238 and 240 all of 2017, the delay stands condoned and Second Appeal is

restored to file. The appellants shall file paper-book and also deposit costs of Rs. 200/- [rupees two hundred only] within a period of four weeks from today; failing which the earlier order dismissing the appeal shall revive.

Applications are allowed and disposed of.

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Civil Appln. No. 239 of 2017 :

Considering earlier order dated 17th January, 2008 and as the Second Appeal has been restored to file, the parties shall maintain status quo in terms of order dated 17th January, 2008.

Civil Application is disposed of.

Judge