

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

CIVIL APPLICATION (CAS) NO.974 OF 2017
IN
SECOND APPEAL ST. NO.18049 OF 2017

Shankar s/o Ganpat Sarode, Wardha
-vs-
Parvatabai w/o Narayanrao Gathe and ors.

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

Court's or Judge's Orders.

Shri S. A. Radke, Advocate for applicant/appellant.
Ms Khare, Advocate for non-applicant No.1.
Shri S. K. Bhojar, Advocate for non-applicant Nos.2 & 3.

CORAM : A.S.CHANDURKAR, J.
DATE : February 02, 2018

By this application it is prayed that the delay in filing second appeal be condoned. In the application it is stated that initially the applicant had filed Writ Petition No.1105/2014 and that writ petition was withdrawn with liberty to file the second appeal. On that count the delay has been caused.

Application is opposed by learned counsel for the non-applicants on the ground that even after withdrawal of the writ petition there is delay in filing the second appeal. Same has not been explained.

Considering the fact that the applicant was pursuing the litigation and the second appeal was required to be filed along with court fee, the delay stands condoned. Civil application is allowed and disposed of.

Second Appeal St. No.18049 of 2017

Issue notice for final disposal of the second appeal on the following substantial question of law :

“ Whether the delay in filing appeal under Section 96 of the Code of Civil Procedure, 1908 was liable to be condoned ? ”

Ms Khare, learned counsel waives notice on behalf of respondent No.1. Shri S. K. Bhoyar, learned counsel waives notice on behalf of respondent No.3. Humdast for service on respondent No.2.

Notice returnable on **06/03/2018**.

JUDGE