

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

C.A.O. NO. 19/2018
AND
M.C.A. (ST) NO. 25077/2017
IN
C.A.A. NO. 19/2015
IN
A.O. (ST) NO. 21165/2014

Shri Kawdu S/o Ghulba Patil
..VS..

Smt. Sonabai Pandurang Meharkure & ors.

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

Court's or Judge's orders

CORAM : Z.A.HAQ, J.
DATED : APRIL 09 2018.

None appeared for the applicant/appellant on 25/01/2018.

Order sheet dated 22/02/2018 records that matter was adjourned on that date for four weeks.

Today also, none appears for the applicant/appellant when the matter is called out.

Respondent no. 1-Smt. Sonabai Pandurang Meharkure had filed R.C.S. No. 53/1990 praying for decree for partition and separate possession. The civil suit was decreed by the judgment dated 26/08/2003. The decree holder filed execution proceedings bearing no. 84/2008. The applicant/appellant filed appeal to challenge the judgment and decree passed by the trial Court and as there was delay of 5 years and 81 days in filing the appeal, an application praying for condonation of delay was filed. The original plaintiff-decree holder opposed the application filed by the

present applicant praying for condonation of delay. The parties were granted opportunity to lead evidence in respect of their rival contentions. The present applicant failed to lead any evidence and therefore the learned District Judge dismissed the application filed by him on 30/11/2010. This order is challenged by the applicant before this Court by filing appeal under Order XLIII of the Code of Civil Procedure, 1908. There was delay of about 1400 days in filing this appeal therefore, C.A.A No. 19/2015 was filed praying for condonation of delay. By order dated 14/07/2017, this Court directed issuance of notice of C.A.A. No. 19/2015. The applicant failed to supply the copies of the civil application inspite of grant of several opportunities and therefore, the learned Registrar (J.) passed an order on 05/10/2017 and dismissed the matter in default. The applicant/appellant has filed M.C.A. (St.) No. 25077/2017 praying that C.A. No. 19/2015 be restored. There is delay of about 33 days in filing miscellaneous civil application, therefore this civil application is filed praying that delay be condoned.

The applicant/appellant has not been able to point out sufficient cause which prevented him in filing the miscellaneous civil application within prescribed period of limitation. For this reasons and considering the conduct of the applicant/appellant, civil application is dismissed.

Consequently, the M.C.A. (St.) No. 25077/2017 is rejected.

JUDGE