

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

CIVIL APPLICATION (O) NO. 451/2019
IN
MISC. CIVIL APPLICATION (ST.) NO. 1861/2019
IN
S.A. NO. 453/1998

Panchfulabai Wd/o Jayaji Jadhav Thru LR's
..VS..
Ramji K. Jadhav & ors.

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

Court's or Judge's orders

Shri J.S. Wankhede, Advocate for the applicant(s)

CORAM : Z.A.HAQ, J.
DATED : 24/06/2019

In the second appeal, this Court had passed an order on 04/09/2007 as follows:-

“In case the appellant fails to file the private paper book within a period of four weeks from today, the appeal would stand dismissed without further reference to the Court.”

The appellants failed to comply and had not filed the private paperbook. Hence, the appeal came to be dismissed on 03/10/2007. The appellants had filed M.C.A. No. 221/2010 praying that the appeal be restored. This application was also not prosecuted diligently and none appeared for the appellants when the application was listed before the Court. Hence, M.C.A. No. 221/2010 was dismissed. Again, the applicants – appellants have filed M.C.A. (St.) No. 1861/2019 reiterating the prayer for restoration of the second

appeal. There is delay of about 4101 days in filing the M.C.A. Hence, this civil application praying for condonation of delay is filed.

Apart from the fact that the M.C.A. (St.) No. 1861/2019 is not maintainable as M.C.A. No. 221/2010 with same prayer is already dismissed by this Court and the applicants – appellants have not prayed for restoration of M.C.A. No. 221/2010, on facts also, I find that the inordinate delay of more than 10 years cannot be condoned as the applicants – appellants have not justified and explained the delay. The applicants – appellants have stated that the applicant – appellant no. 2 who is looking after the matter was under treatment since 2011 till 2017. There is no explanation for not attending the matter before 2011. This Court had passed conditional order on 04/09/2007 which was not complied with.

Hence, I see no reason to condone the delay.

The civil application is **dismissed**. Consequently, M.C.A. (St.) No. 1861/2019 is rejected. No costs.

JUDGE

Ansari