

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

CIVIL APPLICATION (CAS) NO. 506 OF 2019
IN
SECOND APPEAL NO. 12295 OF 2017

Balwant s/o Narayan Mahantare

..VS..

Sonaba s/o Vithoba Kamble

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

Court's or Judge's orders

Shri M.P. Kariya, Adv. for applicant/appellant.

Shri D.R. Bhuyar, Adv. for respondent-sole.

CORAM : VINAY JOSHI, J.

DATED : 14th NOVEMBER, 2019

Heard learned Advocates appearing for both
sides.

2. This is an application for condonation of delay of 562 days caused in filing the Second Appeal. The appellant initiated obstruction proceeding in execution which was allowed. The respondent/decreed holder went in First Appeal in which the order of Executing Court was reversed. The appellant desires to challenge the impugned order dated 19.08.2015 passed in Regular Civil Appeal No. 255 of 2012 by way of Second Appeal. Since, there happened to be delay in filing Second Appeal, hence this delay condonation application is preferred.

The applicant/appellant has mainly canvassed that initially he has entrusted the papers to one Advocate Ashwin Kale who unfortunately died before filing of the appeal. Thereafter, the appellant sustained paralytic

problem and was confined in the illness for two years and therefore, for these reasons he was unable to file Second Appeal within stipulated period .

The other side though objected the grounds for delay, however, it is informed from the Bar that sad demise of Advocate Ashwin Kale is matter of knowledge of everyone. Considering both the reasons, I hold that, the appellant has made out sufficient cause for condoning the delay.

In view of that, the delay caused in filing the Second Appeal is condoned. Second Appeal be registered. The Civil Application is allowed and disposed of accordingly.

JUDGE

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