

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

CIVIL APPLICATION (O) No.1112 OF 2019

IN

M.C.A.St. NO.26589 OF 2018 IN C.A.S. NO.767 OF 2018

Shri.Nemiprasad s/o. Dhannalal Sanodia

vs.

Prabhakar s/o.Nathuji Thakare & anr.

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

Court's or Judge's orders

Shri. Dara Singh J. Sindhu, Advocate for appellant.

CORAM : Manish Pitale J

DATED : 22.08.2019

Heard learned counsel for the
applicant/appellant.

2. These are applications for restoration and for condonation of delay in moving the application for restoration. The record shows that in the application for condonation of delay in filing the Second Appeal, notice was issued on 07.08.2018 and on the returnable date the learned counsel for the applicant was directed to serve copies on the counsel who had entered appearance for the respondents No.1 & 2 and it was further directed that in case of non-compliance of the said direction, the application would stand dismissed without reference to Court.

3. It appears that there was failure on the part of the counsel for the applicant to serve copies on the learned counsel for the respondents, as a result of which, the application for condonation of delay in Second Appeal itself stood dismissed.

4. I have perused the reasons given in these two applications and for the reasons stated in the application, the same are allowed. Consequently, the delay is condoned and the application for restoration is allowed.

5. As a consequence, the application for condonation of delay in filing the Second Appeal stands revived, but since there was an order of dismissal due to non-compliance of direction given by this Court, fresh notice will have to be issued on the said application. In order to examine whether this exercise could be undertaken, I have heard the learned counsel for the applicant/appellant at length on the merits of the matter and it is only because a prima facie case is made that indulgence is being shown.

6. Hence, issue notice on the application for condonation of delay in filing Second Appeal, returnable in four weeks.

JUDGE