

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

CIVIL APPLICATION (CAS) NO. 330 OF 2018
IN
SECOND APPEAL ST. NO. 26807 OF 2017

Shri Manik s/o Govinda Bhoyar

..VS..

Sheikh Mohd. Salim Shaikh

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

Court's or Judge's orders

Ms. Kirti T. Deshpande, Adv. h/f Shri R. Vyas, Adv. For appellant.
Shri C.F. Bhagwani, Adv. for respondent.

CORAM : VINAY JOSHI, J.

DATED : 13th NOVEMBER, 2019

Heard both sides. This is an application seeking condonation of delay of 199 days caused in filing Second Appeal challenging the order of dismissal of First Appeal dated 10.10.2017 passed by District Judge, Nagpur in Misc. Civil Application No. 1196 of 2015. It reveals that the respondent has initially filed the suit for specific performance which came to be decreed.

2. Being aggrieved the appellant has preferred the First Appeal and there was delay. Therefore, he sought for condonation of delay which was rejected by learned District Judge, Nagpur, which order is impugned herein.

3. The appellant contended that he is poor agriculturist and totally depending upon the agricultural income. Due to paucity of funds he was not able to take necessary legal steps. It is argued by the appellant that the

then learned Advocate has not informed the things to appellant which added the cause of delay. The other side resisted this application by contending that the appellant has not made out sufficient cause so as to condone the delay.

4. It reveals that, the matter pertains to the rights of immovable property, the First Appeal was also not entertained for want of explaining delay to the satisfaction of Court. The appellant appears to be agriculturist and he has canvassed the reasons of paucity of funds to take legal steps. The another ground is that, the learned Advocate has not apprised the position of dismissal of appeal which resulted into delay. Time and again, the Courts have adopted the liberal approach to be adopted while considering the application for condonation of delay. Considering the nature of litigation and cause canvassed, it is appropriate to condone the delay by imposing certain costs. Therefore, following order is passed :

- (i) The Civil Application stands allowed subject to costs of Rs.5,000/- to be paid to other side within four weeks from today. Failure of payment of costs would automatically result of rejection in this appeal. The Civil Application stands disposed.
- (ii) On deposit of costs amount, delay stands condoned and the appeal be registered.

JUDGE