

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

**CAO 1033/2017 along with MCA St No.15619/2017 and
 Second Appeal No.409/2002**

Smt. Kausalyabai wd/o Pandurang Khobragade (Dead) through L.Rs.
 Vijay Pandurang Khobragade.

Vs.

Tulshiram Andhaluji Khobragade (Dead) through L.Rs. Smt.Prabhawati W/o
 Nagorao @ Mahadeo Meshram and others

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

Court's or Judge's order

.....
 None for the Applicants/Appellants.

Shri C.N. Adgokar, Advocate for Respondent
 nos.1, R1(c), 2, 3 and 5.

CORAM : MILIND N. JADHAV, J.

DATED : 15/01/2020.

Both these applications have been taken out by legal heirs of deceased Appellant (Original Plaintiff) seeking condonation of delay of 355 days in filing the application for restoration. The application for restoration of Second Appeal has been filed since the Second Appeal came to be dismissed on 30.6.2016 in default due to absence of the Appellant. Though, both the applications have been taken out in the year 2017, they have remained filed on record of the case without being prosecuted by the Appellants. Today, Mr. Adgokar, learned counsel appears for Respondent nos.1, R1(c), 2, 3 and 5.

2. On 4.1.2020, this Court had recorded that none had appeared for the respective parties and, therefore, the case should be put up for disposal on 13.1.2020. On 14.1.2020 this Court had passed another order:

“None appears for the applicant.

Perused the record of the case. This application has been filed for seeking restoration of the second appeal which came to be dismissed in default on 30.06.2016.

The challenge in the second appeal is in respect of two concurrent orders, which have been passed in the year 2000 and 2002 respectively. Since, the case is very old and none appears for the applicant (appellant), the application is kept for dismissal on 15.01.2020.

The counsel appearing for the respondents is directed to inform the counsel appearing for the applicant about the application being kept tomorrow”.

3. Shri Adgokar, learned counsel fairly informs the Court that pursuant to the above order passed on 14.1.2020 he personally paid visit to the chamber of Shri M.R.Pillai, Advocate on record appearing on behalf of the Appellants and informed his junior Advocate Shri

Ambagade about the present applications and Second Appeal being on board today. Even today, none is present for the Appellants.

4. In view of the above, both the Civil Applications are dismissed in default.

JUDGE

Ambulkar