

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

MISC. CIVIL APPLICATION NO.10/2020

IN

REJ. MISC. CIVIL APPLICATION NO.424/2019 (M.C.A. ST. NO.548/2019)

IN

SECOND APPEAL NO.229/2013 (D)

Bhimrao s/o Domaji Tarke (Dead)

Through Legal Representative Smt. Anusaya wd/o Bhimrao Tarke and others

...Versus...

Shriram s/o Langdaji Tarke

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

Court's or Judge's orders

Shri K.J. Topale, Counsel for applicants
Shri P.A. Dharaskar, Counsel for respondent

CORAM : AVINASH G. GHAROTE, J.

DATE : 09/01/2020

Heard.

By the present application, the order dated 06/06/2019 rejecting Misc. Civil Application St. No.548/2019 in Second Appeal No.229/2013 is sought to be set aside and the application is sought to be restored.

Considering the reasons given in the application, the civil application is allowed. Misc. Civil Application St. No.548/2019 stands restored.

CIVIL APPLICATION (CAO) ST. NO.549/2019

This is an application for condonation of delay of 160 days caused in filing the restoration application. The second appeal, which was admitted, was dismissed on account of failure to file the private paper-book.

The reason given is that the Counsel for the appellant was out of India due to personal reasons and the appellant was not in a position to take steps nor was he aware of the dismissal of the appeal.

Considering the reasons given, the delay of 160 days caused in filing the restoration application is condoned. The civil application is allowed and disposed of accordingly. No order as to costs.

REJ. MISC. CIVIL APPLICATION NO.424/2019**(M .C.A. ST.NO.548/2019)**

By this application, restoration of appeal by setting aside the order of dismissal dated 03/08/2018 on account of non-filing of paper-book, is sought.

Learned Counsel for the respondent opposes the application. However, considering that the appeal is already admitted and was dismissed on a technical ground of non-filing of the private paper-book, accepting the statement of the learned Counsel for the applicants that the paper-book is ready and would be filed within a period of one week from today, the first appeal is restored.

The civil application is allowed the disposed of accordingly. No order as to costs.

SECOND APPEAL NO.229/2013

Learned Counsel Shri Dharaskar waives service of notice for the respondent sole.

JUDGE

Wadkar, P.S.