

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 571 OF 2020

IN

SECOND APPEAL NO. 250 OF 2007

Maharashtra State Co-Op. Marketing
Federation Ltd. Bombay

... Appellant

V/s.

Anandrao Haribhau Rabade

... Respondent

Ms.Shraddha Chheda i/b. M/s. Navdeep Vora & Associates for Appellant.
Mr.Shankar P. Thorat for Respondent No.1.

CORAM : A.S. GADKARI, J.

DATE : 20th October 2021.

PC. :

1. This is an application for restoration of Second Appeal No.250 of 2007, which was dismissed for non compliance of conditional Order dated 30th July 2007 passed by this Court.

There is a delay of 12 years and 6 months in preferring the present application.

Last para of the said Order dated 30th July 2007 reads as under.

“R & P be called. Printing is dispensed with. The appellant is directed to file a private paper book within eight months from today, failing which the appeal shall stand dismissed for non prosecution without further reference to the court.

Liberty to the parties to mention for fixed date of hearing only after filing of the paper book and R and P is received.”

2. As per the said Order, the Appellant was supposed to file paper-book in the Registry of this court on or before 30th March 2008, however the same was not filed and the said Second Appeal stood dismissed for non compliance of the said Order.

3. Learned counsel for the Applicant-original Appellant submitted that, as a matter of fact the Advocate for the Appellant had submitted the paper-book in the Registry of this Court though belatedly on 29th July 2008 and therefore it amounts to acceptance of the said paper-book by the Registry within stipulated period. The said submission is recorded only for its rejection at its threshold for a plain and simple reason that, after dismissal of the said Appeal on 30th March 2008, the concerned Assistant Registrar or any other staff from the Registry without verifying the said fact of dismissal of the said Appeal, ought not to have accepted the paper-book and his/her acceptance of the same after dismissal of the Appeal is without authority and permission by this Court. Therefore the said submission cannot be accepted.

4. The Respondent has filed elaborate Affidavit-in-Reply dated 30th July 2021 opposing the present application.

5. A bare perusal of the application would indicate that, no ground least to say any sufficient ground explaining such an inordinate and colossal delay has been mentioned by the Applicant/Appellant in the Application. The Applicant/Appellant has not offered any explanation least to say satisfactory and proper explanation for condonation of such a colossal and inordinate delay of 12 years and 6 months in preferring the present application.

6. Application is without merits and is accordingly dismissed in *limine*.

[A.S. GADKARI, J.]

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