

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

**Civil Application (CAF) No.3365 of 2019**  
**IN**  
**First Appeal Stamp No.6987 of 2019**

Dada s/o Paikuj Nagpure (Dead), thr. his legal Heir **Vs.** State of Maharashtra & Ors.

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

Court's or Judge's Orders

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Shri A.R. Patil, Advocate for the Appellant.  
Shri M.A. Kadu, A.G.P. for Respondent Nos.1 and 2.  
Shri S.G. Jagtap, Advocate for Respondent No.3.

**CORAM : S.M. MODAK, J.**  
**DATE : 8<sup>th</sup> JANUARY, 2021.**

Heard both the sides.

There is delay of 262 days in preferring an appeal. The Reference Court has dismissed the application vide judgment dated 5<sup>th</sup> March, 2018. The condonation of delay is opposed. The appellant was in financial difficulties. The reasons are convincing.

It is pointed out to me that is the second round of litigation and it is the second time dismissal of the reference application. First time, it was dismissed as it was time barred and now, it is dismissed on merits. Earlier, the reference was restored as per the direction of this Court dated 30<sup>th</sup> October, 2017.

Now, the appellant is required to approach this Court because it was dismissed on wrong appreciation. The issue of waiver of interest for all these period cannot be considered now. But certainly, the appellant cannot claim interest for the period condoned. Hence the order:-

**ORDER**

- i. The application is **allowed**.
- ii. The delay of 262 days caused in filing an appeal is condoned subject to waiver of interest for that period.
- iii. The civil application is disposed of.

**First Appeal Stamp No.6987/2019**

Heard.

**Admit.**

Call for record and proceedings.

Issue notice to the respondents.

Learned A.G.P Shri M.A. Kadu waives notice for respondent Nos.1 and 2.

Learned Advocate Shri S.G. Jagtap waives notice for respondent No.3.

Copy be supplied to the respondents.

**JUDGE**