

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

Civil Application (CAO) No.22 of 2021

In

Misc. Civil Application (ST) No.12808 of 2020

NARAYAN WAMANRAO KULKARNI VS SAU. MUGDHA MOHAN DESHMUKH

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

Court's or Judge's Order

Shri A.O. Shriwas, Advocate for the Applicant

Shri Deshpande, Advocate h/f Shri Khapre, Advocate for the
respondent

CORAM : ANIL S. KILOR, J.

DATED : 16th DECEMBER, 2021

This application for condonation of delay in filing
the application for restoration of appeal dismissed by
order dated 31.01.2019.

2. I have heard learned counsel for the respective
parties.

3. The learned counsel for the appellant points out
that there is a delay of 658 days in filing the application
for restoration of appeal.

4. It is submitted that the earlier lawyer, appearing in
the appeal on behalf of the appellant, has stopped the

practice and this fact was not in knowledge of the appellant.

5. In reply to the same, the learned counsel for the non-applicant/respondent points out that, subsequently, paper book was filed in this appeal and therefore, the submission of the applicant cannot be accepted that the applicant was not having knowledge that the earlier lawyer has stopped the practice.

6. He submits that by filling of paper book indicates that the applicant has engaged the some other lawyer in this matter, who have filed the paper book.

7. Learned counsel for the applicant has drawn attention to the additional affidavit filed on record, in which he has explained how the paper book came to be filed by some other lawyer.

8. Considering the dispute involved in this appeal, I am of the opinion that instead of dismissing the appeal on technical ground, the same should be considered on merit. It be decided on merit in the interest of both the parties.

9. Accordingly, on finding that the cause shown in the application is satisfactory, I am of the opinion that

the delay should be condoned, subject to imposition of some cost. Accordingly, I pass the following order:

10. The application is **allowed** and thereby, the delay caused in filing application for restoration, is condoned, subject to the cost of Rs.5,000/- to be paid to the High Court Legal Services Sub-Committee, Nagpur.

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For the reasons stated in the application, the application is **allowed**.

Office is requested to restore the appeal in its original number and place the matter for final hearing in its regular course.

[ANIL S. KILOR, J.]