

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

CIVIL APPLICATION (CAS) NO.1296 OF 2018
IN
SECOND APPEAL ST.NO.27588 OF 2017

(NAGPUR IMPROVEMENT TRUST....VS.. PRABHAKAR SHANKAR BAPAT (DEAD) THR. LRS.& ORS.)

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

Court's or Judge's orders

Shri Yohan Chougule, Adv. h/f. Shri R.Chhabra, Advocate for Applicant.
Shri Deshpande, Adv. h/f. Shri A.Parchure, Adv.for Resp.Nos.1 (i) to (iv).
Shri R.R.Gour, Adv. h/f. Shri O.W.Gupta, Adv. for Resp. No.2.

CORAM : ANIL S. KILOR, J.
DATED : DECEMBER 02, 2021.

1. Heard.
2. This is an application for condonation of delay.
There is delay of 112 days.
3. The learned counsel for the applicant has pointed out that the only reason mentioned in the application is that they could not obtain legal opinion immediately in respect of filing of the second appeal and therefore, time consumed for the same is the cause for delay.
4. The learned counsel for respondent No.1 (i) to (iv) submits that the reason mentioned in the application is not sufficient. However, if this Court is of the opinion to condone the delay by taking liberal approach in the matter, costs may be imposed on the applicant.

5. It appears that the learned counsel for the respondent No.2 is not available as he has filed counsel note. However, after going through the record, it appears that this application is pending since 2017 and in these four years none of the non-applicants have filed reply opposing the application.

6. In that view of the matter, I am of the opinion that looking to the subject matter involved in the present appeal, instead of dismissing the appeal on highly technical ground of delay, the parties may be given opportunity to fight out the case on merits. Accordingly, the application is **allowed**. Delay of 112 days is condoned subject to costs of Rupees Twenty Five Thousand, to be deposited in the High Court Legal Services Sub Committee, Nagpur. The amount shall be deposited within two weeks, failing which, the application shall stand dismissed without reference to this Court.

7. On deposit of the costs, office to register the Second Appeal and place the same for admission before the Court.

The Civil Application stands **disposed of** accordingly.