

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

CIVIL APPLICATION (O) NO.859 OF 2019

IN

MISC. CIVIL APPLICATION (R)(ST.) NO.2516 OF 2019

IN

FIRST APPEAL NO.349 OF 2018

{Dy. Chief Engineer (Construction), Central Railway, Nagpur and Anr.
..Vrs.. Sau. Kanta Wasudeorao Padole and Ors.}

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

Court's or Judge's order

Shri N. P. Lambat, Advocate for the Applicants/Appellants.
Shri S. S. Shingane, Advocate for the Respondent No.1.
Shri M. A. Kadu, AGP for the Respondent Nos.2 and 3.

CORAM : ABHAY AHUJA, J.

DATE : 21st SEPTEMBER, 2022.

. This is an application seeking condonation of delay of 300 days in preferring a review of the order dated 06.03.2018 passed by this Court in First Appeal (St.) No.24686 of 2016, whereby this Court had dismissed the appeal filed by the review applicants.

2. Shri Lambat, learned counsel appearing for the appellants/applicants would submit that the review application has come to be filed as the Court had failed to consider that the claimant was in possession of the subject property and the compensation was erroneously granted for the period during which, the claimant continued in possession. He submits that this Court on 26.04.2019 has stayed the execution proceedings filed by the claimant on the condition that the amount of interest as directed by this Court is deposited. The learned counsel states that the said amount

has already been deposited in this Court. He draws the attention of this Court to paragraphs 4 to 7 of the application in support of his contention that the delay be condoned. He submits that the entire chronology of events, after the information about the dismissal of the appeal being received on 18.07.2018, clearly explains the time taken to file the review application.

3. Shri Shingane, learned counsel appearing for the claimant refers to the reply dated 07.12.2021 and submits that there is no explanation on the lapse of more than four months from the date of the impugned order viz. 06.03.2018 and the date viz. 18.07.2018 on which the information was received with respect to the dismissal of the appeal. Shri Lambat, learned counsel for the review applicants submits that, the lapse was on the part of the earlier counsel and for that review applicants cannot be held responsible.

4. Having heard the learned counsel for the parties and having perused the application as well as the reply, this Court is of the view that an omission on the part of the counsel cannot and should not jeopardize the case of a litigant.

5. Considering the fact that the execution proceedings have already been stayed by this Court and the amounts as directed have already been deposited and that the delay from the receipt of the information of dismissal of the appeal till the filing of the review application has been sufficiently explained, the delay of 300 days is hereby condoned.

6. Let the review application be registered within a period of two weeks from today. The civil application stands

disposed. List the review application for final disposal on
10.10.2022 High on Board.

(JUDGE)

TAMBE