

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

CIVIL APPLICATION (CAS) NO. 418 OF 2021
IN
SECOND APPEAL (ST.) NO. 4836 OF 2021

Hariprasad S/o. Ramprasad Dakaha

...VERSUS...

Sanjay Khumani Damankar and anr.

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

Court's or Judge's order

Shri H.S.Chawhan, Advocate and Shri P.S. Chawhan, Advocate for
appellant/applicant.
Shri Nitin B. Bargat, Advocate for respondent no. 1.

CORAM : SMT. M. S. JAWALKAR,J.

DATE : 10th August, 2022.

The present application is filed for condonation of delay of 700 days.

2. The judgment under challenge is passed on 19/01/2018 and this application is filed on 13/7/2021. Though it is stated that there was financial crunches and for that reason, the appellant/applicant could not file the Second Appeal and also thereafter, due to pandemic, there was delay in filing the appeal, it does not appear to be correct.

3. The learned counsel appearing for respondent no. 1 pointed out the delay of 1070 days from the application. He also pointed out that the appellant/applicant by engaging counsel is already prosecuting the matter before the executing court and his

financial condition is very much sound but the appellant/applicant did not place on record his salary slip so as to show his financial condition.

4. The learned counsel for respondent no. 1 further pointed out that the appellant/applicant is serving as a clerk in the Government Ayurvedic Hospital at Nagpur. The respondent no. 2 is real brother of appellant/applicant and he was also serving as a clerk in the Railway Department and he has retired from the said job. The appellant/applicant and respondent no. 2 have received the entire consideration also. There is no challenge by the brother of the appellant. These facts are not controverted by the learned counsel for the appellant. In view thereof, the story put forth by the appellant/applicant is totally false. There is no financial crunches to the appellant/applicant.

5. Consequently, there is no proper explanation for the period from 19/01/2018 till March, 2020. Though it is correct that in March, 2020, there was Covid pandemic situation, however, there is no explanation for two years i.e. from 19/1/2018 till March, 2020.

6. I am satisfied that there is no bonafide justifiable reason put forth by the appellant/applicant to condone the delay. Accordingly, the application stands dismissed.

(Smt. M.S. Jawalkar, J.)