

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

WRIT PETITION NO.4503 OF 2022

Laxman s/o Gulabrao Chidam
Vs.
Rambhau s/o Gulabrao Chidam

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

Court's or Judge's orders

Mr. Y. Y. Humne, Advocate for petitioner.

CORAM : AVINASH G. GHAROTE, J.
DATE : 02/08/2022

1. The present petition challenges the order dated 12.8.2021 passed by the District Judge – 16, Nagpur whereby the application for condonation of delay filed by the petitioner, who was the original defendant in Special Civil Suit No.464 of 2004 a suit for specific performance, which was decreed on 7.4.2007 has been rejected, on the ground that there is no sufficient cause explained for the delay of 10 years and 7 months in filing of the appeal.

2. Mr. Humne, learned counsel for the petitioner contends that after passing of the judgment and decree in Special Civil Suit No.464 of 2004 on 7.4.2007, since the same was made conditional upon the plaintiff (respondent) depositing the balance consideration amount of Rs.75,000/- in the Court within two months, and the amount was not so deposited, the

application for extension of time was opposed, therefore, the appeal was not filed, as the litigation was being contested by the petitioner (defendant) in this Court as well as before the Hon'ble Apex Court. This reason has not been accepted by the learned Court below and in my considered opinion rightly so, for the reason that nothing prevented the petitioner from having laid a challenge to the judgment and decree passed by the trial Court in Special Civil Suit No.464 of 2004, within the time limited thereto by the limitation Act. It is not a case, as the petitioner was not aware of his rights in the matter, as he was contesting the order granting extension of time to deposit the balance consideration. The plea that he was not properly advised by the counsel, does not appeal to me, as the petitioner cannot be considered to be a layman in the matter of litigation considering the chequered history of the litigation. There is no other reason explaining the delay of 10 years and 7 months, considering which, I am in agreement with what has been held by the learned Court below that no sufficient cause has been spelt out to explain the aforesaid delay.

3. The petition is, therefore, devoid of any merit and is accordingly rejected.

JUDGE