

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

**CIVIL APPLICATION (CAO) NO. 628 OF 2021
AND
CIVIL APPLICATION (CAF) NO. 1993 OF 2021
IN
FIRST APPEAL (ST) NO. 3248 OF 2014**

Maharashtra Industrial Development Corporation, Amravati
Vs.
Dilip s/o Hiralal Shah and Ors.

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

Court's or Judge's Orders.

Mr. Agnihotri, Advocate for applicant.
Mr. Trupti Udeshi, AGP for respondent No.3.

CORAM : ABHAY AHUJA, J.

DATE : 14.09.2022.

When this matter was called out yesterday, Mr. Mayank Agnihotri, learned counsel for the applicant while arguing the application for condonation of delay of 743 days in filing the application for restoration of the appeal was unable to point out any application or averment for restoration when a query was put to the learned counsel. An order of condonation of delay and restoration with cost therefore, came to be dictated. However, while correcting the order, it was observed

from the proceedings that there was in fact an application for restoration of the dismissed Civil Application (CAF) No.1993/2021, already filed. Therefore, the two applications, one for condonation of delay and the other for restoration of the appeal, have been listed for orders this afternoon.

2. Mr. Agnihotri, learned counsel for the applicant submits that yesterday he did not have copy of the said application with him and therefore, he could not make submissions in that regard.

3. Today, learned counsel refers to the restoration application and submits that there are two applications, one for condonation of delay and for restoration of the appeal that came to be dismissed as against respondent No.1 inasmuch as, the same could not be served upon the said respondent in compliance of the order dated 27.08.2019 of the Registrar of this Court. He submits that the respondent No.1, had changed his address and therefore, the concerned clerk could not supply the correct address within the time stipulated in the order of the learned Registrar. He submits that corporation has now supplied the correct address and admittedly the restoration application as well as

the condonation of delay application has been served on respondent No.1. The respondent No.1, though served, is not present or represented.

4. Mr. Agnihotri, submits that if the delay is not condoned and the appeal is not restored, the impugned order passed by the reference Court enhancing the market value without proper appreciation of facts could cause huge burden on the State Exchequer and on public funds. In this view of the matter, he submits that the delay be condoned and the appeal be restored against the respondent No.1/claimant.

5. Ms. Trupti Udeshi, learned AGP for the State also supports the case of the appellant/applicant.

6. Mr. Agnihotri, learned counsel has drawn attention of this Court to paragraphs 2 to 4 of both the applications in support of his contentions.

7. Having heard the learned counsel for the parties and having perused the applications, this Court is of the view that it would be in the interest of justice that the delay of 743 days in filing the

restoration application is hereby condoned and the appeal be restored.

8. The civil applications are therefore allowed as prayed for and accordingly stand disposed.

JUDGE