

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

CIVIL APPLICATION (CAS) NO. 1055 OF 2022
IN
SECOND APPEAL (ST.) NO. 14081 OF 2022

Ramlal Sonaji Gawali

...**VERSUS**...

Mohd. Nayeem Mohd. Siddique

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

Court's or Judge's order

Shri P.A.Kadu, Advocate for appellant.

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

DATE : 10th OCTOBER, 2022

Heard.

2. The present application is filed for condonation of delay in filing Second Appeal.

3. It appears that the appellant was suffering from paralysis and with the help of his son, he was contacting with the counsel. On receipt of notice in execution proceeding, he came to know that the appeal bearing R.C.A. No. 99/2016 is dismissed and thereafter, he applied for certified copies of relevant documents and filed the Second Appeal.

4. I am satisfied that the delay occurred is bonafide and not intentional or deliberate. As such, delay of 92 days in filing the Second Appeal is hereby condoned. Accordingly, the application is disposed of.

5. Registry is directed register the Second Appeal.

SECOND APPEAL (ST.) NO. 14081 OF 2022

After registration of Second Appeal, issue notice to the respondent, returnable within three weeks, on the following substantial questions of law:-

“1] Whether the learned lower Appellate Court erred in holding that the suit filed by the plaintiff is within limitation, particularly, when the plaintiff has pleaded that, on 27/09/2008, the defendant avoided to execute the sale deed and suit being filed after three years i.e. on 14/11/2011 ?

2] Whether the learned lower Appellate Court committed an error in admitting in evidence Exh. 26 which is an unstamped instrument, contrary to the statutory bar under Section 34 of the Maharashtra Stamp Act, 1958 ?

3] In view of contrary stand of the plaintiff in notice dated 18/03/2011 and in plaint regarding payment of consideration, whether the plaintiff is required to place on record the documentary proof of payment of consideration amount to the defendant ?”

CIVIL APPLICATION (CAS) NO. 1056 OF 2022

Issue notice to the respondent, returnable within three weeks

2. Till returnable date, the effect, operation and execution of impugned judgment and order dated 18/11/2021 passed by learned District Judge-3, Amravati in R.C.A. No. 99/2016 is hereby stayed.

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