

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

CIVIL APPLICATION (CAF) NO. 534 OF 2023
IN
FIRST APPEAL STAMP NO.1614 OF 2023

Yadav Pandurang Kumre
Vs.
Vidhya Bhushan Bhoyar and another

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

Court's or Judge's orders

Mr. Premchandra Dahake, Advocate h/f Mr. S. D. Mohod, Advocate for appellant.
Mrs. U. A. Bhattad, Advocate for respondent Nos.1 and 2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 19/04/2023

The present application is for condonation of delay on the ground that the present appellant was not served with the notice and the *ex parte* order was passed against him. In fact, no notice was served upon him. It is further contended that after passing of the award, he contacted the Counsel who filed writ petition. The said writ petition came up for the hearing on 02.01.2023 and same was withdrawn. Thereafter the present application is filed, therefore, delay of 322 days is caused. Delay is for the sufficient and satisfactory reason. Hence, delay be condoned.

The said application is strongly opposed by the learned Advocate Mrs. Bhattad, for the respondent Nos.1 and 2 on the ground that delay is not properly explained.

Heard both the sides. Perused the application and the record. It seems that, the service of the notice on the appellant was not appropriate service and, therefore, appellant could not contest the claim petition and, therefore, award is passed *ex parte*.

In view of the reasons mentioned in the application, to do the substantial justice, delay of 322 days deserves to be condoned.

In view of that, delay of 322 days is condoned.

Civil Application is disposed of.

Appeal be registered.

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Heard.

Admit.

Learned Advocate Mrs. Bhattad, waives notice for respondent Nos.1 and 2.

Call for record and proceedings.

Appellant to file paper book within eight weeks, after receipt of the record and proceedings.

Stand over after Summer Vacation.

(URMILA JOSHI-PHALKE, J.)

Sarkate