

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

CIVIL APPLICATION (CAF) NO.700 OF 2018
IN
MISC. CIVIL APPLICATION STAMP NO.4788 OF 2018
IN
FIRST APPEAL NO.1133 OF 2010

Raju s/o Narayan Tomaskar

Vs.

Gita w/o Raju Tomaskar

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

Court's or Judge's orders

Mr. S. Chopde, Advocate h/f Mr. R. D. Dharmadhikari, Advocate for the appellant.
Mr. A. V. Karmvat, Advocate h/f Mr. S. D. Shirpurkar, Advocate for the respondent.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 24/02/2023

1. The application is for condonation of delay which is caused in preferring the restoration application for restoring the appeal.
2. As per the contention of the appellant, the appeal is dismissed as paper book was not filed within time, conditional order was passed by this Court. Inadvertently, the counsel for the appellant has not noted the said fact, and therefore he could not complied the same and hence appeal is dismissed.
3. It is submitted by the learned Advocate that considering the reasons that the counsel has not noted the order of this Court, and therefore paper book was not filed within time. The appellant to be permitted to litigate the cause on merits. Delay is not intentional one

and delay be condoned.

4. Said application is strongly opposed by the learned Advocate Mr.Karmvat, for the respondent. He submitted that there is no justifiable reason for condonation of delay, hence application deserves to be rejected.

5. Heard both sides. Perused the application.

6. It is apparent that, as the counsel has not noted the conditional order of this Court directing to file the paper book, and therefore delay appears to be caused. It is well settled that while condoning the delay liberal approach is to be taken. Moreover, for the fault of the counsel parties should not be suffered.

7. Considering the reasons mentioned in the application, delay deserves to be condoned. In view of that delay is hereby condoned.

8. Civil Application is disposed of.

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1. On filing of the paper book within two weeks, the appeal be restored at its original stage.

2. On failure to file the paper book within two weeks, the earlier order will come into effect.

(URMILA JOSHI-PHALKE, J.)