

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

Writ Petition No.3161/2021

Sau. Lata and others V Smt. Leela and others

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

Court's or Judge's Orders

Mr. Maheshwari, Adv for petitioners.

Mrs. K.S. Nikhade, Adv for resp. nos. 2 and 3.

CORAM : AVINASH G GHAROTE, J.

DATE : 17-04-2023

Heard Mr. Maheshwari, learned Counsel for the petitioner and Mrs K.S. Nikhade, learned Counsel for respondent nos.2 and 3. None for the other respondents though served.

2. The petition challenges the order dated 9-3-21 whereby the application seeking condonation delay in filing cross objection has been rejected (pg 106). Though the application is opposed by learned Counsel for respondent nos. 2 and 3, it is however necessary to note that the petitioners being already party respondents to the appeal, are entitled to challenge any finding under the provisions of Order 41 Rule 22 of the CPC. In view of which, even if the cross objection is not permitted the effect would be the same. In such circumstances, it would be appropriate, if the cross objections are permitted to be placed on record, so that the parties as well as the Court

is aware, of the reason for the challenge.

3. Insofar as the delay in filling the the cross objection is concerned, reliance is rightly placed by learned Counsel for the petitioners upon *State of Maharashtra vs Kalu Ladku Mhatre, reported in 2011 SCC OnLine Bom 769*, which holds that the appellate Court has a wide power to extend the time to file cross objection. In view of this position, the impugned order is quashed and set aside and application below Exh 25 is allowed. The delay is condoned and the cross objection is permitted to be brought on record, however, subject to costs of Rs.20,000/- to be paid by the petitioners as a condition precedent with the District Bar Association Samudrapur, which amount shall be utilized by them for the purchase of a High Speed Scanning Machine for the Bar Association.

JUDGE