

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

CIVIL APPLICATION (CAO) NO.703 OF 2023
IN
FIRST APPEAL STAMP NO.3723 OF 2021

The Executive Engineer, Bembala Canal Division, Yavatmal

Vs.

Shri Kiran Chandrakant Raut and others

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

Court's or Judge's orders

Mr. Tariq Mohammad Zaheer, Advocate for appellant.
Mr. S. V. Ingole, Advocate for respondent No.1.
Ms. T. H. Udeshi, AGP for respondent Nos.2 and 3.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 03/05/2023

1. This application is for condonation of delay in filing the restoration application against the order passed by the Registrar.

2. As per the contention of the appellant the First Appeal was listed for taking steps to serve the respondent No.1, however, inadvertently the counsel for the appellant could not mark the matter and, therefore, the matter remained unattended. Since the appellant has not taken steps to serve the respondent No.1, the Registrar (Judicial) has passed the order of dismissal. Inadvertently the counsel of the appellant has not noted the said order and, therefore, delay of 131 days is caused in preferring the appeal.

3. Learned Advocate Mr. Ingole appearing for the respondent No.1 has no objection for condonation of delay. Learned AGP Ms. Udeshi, for the respondent Nos.2 and 3 has also no objection for condonation of delay.

4. In view of the reasons mentioned in the application, delay of 131 days is condoned.

5. Civil Application is disposed of.

Civil Application (CAF) No.1338/2023

1. Considering the ground that inadvertently the appellant could not take the steps as the order was not noted, the reasons mentioned in the application appears to be just and reasonable one.

2. In view of that, the order of the dismissal is set aside. The appeal is restored against respondent No.1 at its original stage.

3. Civil Application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate