



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

WRIT PETITION NO.4256 OF 2022

Shrihari Ramchandra Nimje and another .Vs. The State of Mah. through Additional
Commissioner, Nagpur Division, Nagpur and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.J. Pathak, Advocate for petitioners.

Ms P.C. Bawankule, A.G.P. for respondent Nos.1, 6 and 7/State.

Shri Nitin Vyawahare, Advocate for respondent No.2.

CORAM : ANIL S. KILOR, J.

DATED : 03/11/2023

1. The order passed by the Additional Commissioner, Nagpur Division, Nagpur condoning the delay caused in filing the Review Appeal No.7 of 2021 vide order dated 28.12.2021, is under challenge in this writ petition.

2. The Additional Commissioner, Nagpur Division, Nagpur while allowing the application has observed that 'delay condoned in the interest of justice'.

3. The learned counsel for the petitioners raised the challenge to the said order on the ground that, without recording any reason for condonation of delay, the delay has been condoned.

4. In reply, Shri Vyawahare, the learned counsel for the respondent No.2 submits that, in the present matter, the order was passed against dead person and on 02.02.2016 copy of order was received by the respondents on 04.01.2021 and thereafter, a lawyer was engaged on 10.01.2021.

5. Shri Vyawahare, learned counsel for the respondent No.2 therefore, submits that, sufficient cause was shown by the respondent for condonation of delay and considering the fact that, the order was passed against the dead person though the reasons were not recorded, in absence of any specific denial to the said fact, the order is just and proper.

6. In light of rival contention, I have perused the impugned order and record.

7. After going through the record, it is evident that, the Sub-Divisional Officer while passing the order has recorded that the father of the petitioners' Vitthal was served, though on the date when the notices were issued Vitthal was not alive. It is further evident that, the order was passed behind the back of the respondent and only after receiving the knowledge, the steps were taken.

8. Thus, from the record, it is apparent that, on 04.01.2021 the respondent received the copy of order and immediately on 10.01.2021, the lawyer was engaged and thereafter, the proceeding was filed on 24.03.2021.

9. In that view of the matter even though the reasons are not stated in detailed, I do not find any error committed by the learned Commissioner in arriving at final conclusion i.e. to allow the application for condonation of delay. Accordingly, the writ petition is **dismissed**.

JUDGE