



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

CIVIL APPLICATION (CAS) NO.1216/2022
IN
SECOND APPEAL ST. NO.10646/2022

Vaishali wd/o Vijay Deshmukh
Vs.
Jayant s/o Nilkanthrao Deshmukh

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

Court's or Judge's orders

Shri M.A. Vishnu, Advocate for appellant
Shri R.K. Dadiyal, Advocate for respondent

CORAM : SMT. M.S. JAWALKAR, J.
DATED : 07/09/2023

The present application is filed for condonation of delay in filing Second Appeal. There is delay of 38 days. The learned Counsel for applicant submits that the appellant preferred Second Appeal by which he has challenged the judgment and decree passed by the learned Joint Civil Judge, Senior Division, Nagpur dated 19/10/2005 and judgment and decree passed by learned District Judge-15, Nagpur in Regular Civil Appeal No.71/2014 dated 20/08/2021.

2. It is contention of the applicant that she was not aware of passing of the order and she came to know on 02/03/2022 when she approached to her Counsel. Thereafter, on her instructions, Second Appeal came to be filed. It is her contention that there was Lockdown due to spread of COVID-19 Pandemic

from 22/03/2020 and since then the Court remain closed. Hence, appellant in spite of filing application for grant of certified copy of judgment did not approach to her Counsel for preparing draft of appeal. It is submitted that the delay is neither deliberate nor intentional but it is occurred due to bonafide reasons. There is delay of 38 days.

3. The learned Counsel for respondent vehemently opposed the application. She has drawn my attention to the Rojnama on 20/08/2021 wherein it was shown that appellant was present. Her Counsel was also present and appeal is dismissed on that day which clearly goes to show that the appellant was having knowledge about the passing of the judgment.

4. From record, it appears that the appellant was present. However, the Court functioning during the period of 15/03/2020 to 28/02/2022 was not regular due to outbreak of Covid-19 Pandemic.

5. The Hon'ble Apex Court in Suo Motu Writ Petition (C) No.3/2020 issued direction that in cases where the limitation would have expired during the period between 15/03/2020 till 28/02/2022 notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01/03/2022. In the event the actual balance period of limitation remaining, with effect from 01/03/2022 is greater than 90 days, that longer period shall apply. In view of

this direction, I am of the considered opinion that even if there is a delay in filing Second Appeal, it needs to be condoned in the interest of justice.

6. The inconvenience cause to the respondent can be taken care of by imposing costs. The application is allowed.

7. The delay in filing Second Appeal is hereby condoned subject to payment of costs of Rs.2000/- to be paid to the respondent within a period of two weeks.

8. The Registry is directed to register the Second Appeal.

9. The application stands disposed of.

JUDGE

R.S. Sahare