

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

CIVIL APPLICATION NO.892/2023 IN M.C.A.ST.NO.11597/2023

Premdas Nandlal Biraha .vs. Vishnu Kashiram Dhake

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

Court's or Judge's orders

Mr. U. J. Deshpande, Advocate for applicant.

CORAM : ANIL L. PANSARE, J.

DATE : 07.07.2023

By the present application, the applicant/appellant is seeking to condone the delay of 356 days in filing the application for restoration of Second Appeal Stamp No. 7952/2022. The appeal came to be dismissed vide order dated 23.06.2022 by the learned Registrar Judicial, on the ground that the office objections were not removed.

Learned counsel for the applicant submits that the learned counsel appearing for the applicant, for some reason, failed to remove the office objections and that therefore appeal came to be dismissed. He further submits that the applicant should not suffer for the fault of his advocate. The applicant came to know of dismissal of the appeal when he inquired with the earlier Advocate in May-2023. Thereafter, immediately the present application is filed.

Thus, the applicant is blaming earlier advocate for the dismissal of the appeal.

It appears the applicant cannot be blamed for dismissal nor for the delay. In other words, the delay caused in filing the present application has been justified. Learned counsel for the applicant undertakes to remove the office objections within seven working days, if the application is allowed and appeal is restored.

Accordingly the application is allowed. Order dated 23.06.2022 passed by Registrar (Judicial) is set aside. Second Appeal Stamp No.7952/2022 is restored to file. If the objections are not removed within seven working days, not only the appeal will be dismissed without reference to the Court, but also the applicant shall deposit costs of Rs.5,000/-. Order accordingly.

The application is disposed of.

(Anil L. Pansare, J.)

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