

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

CAF NO.1846/2021 IN FA ST.NO.10845/2021

Smt.Vanita wd/o Ramesh Pathe and ors

..VS..

Subhash s/o Ramkisan Bhure and anr

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

Court's or Judge's Order

.....
Shri Raju Kadu, Counsel for Applicants.

Shri D.N.Kukday, Counsel for Respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 10/01/2023

1. By this application, applicants/appellants seek condonation of delay in filing the first appeal. Delay is of 812 days.

2. Heard learned counsel for appellants and learned counsel for respondents.

3. As per contentions of appellants, judgment and award is passed on 12.3.2019 against the appellants and in favour of respondents. Applicant No.1 is widow and applicant Nos.2 to 4 are daughters of deceased Ramesh. Whereas, applicant No.5 is old aged mother of the deceased. Due to accident of the deceased, no earning member is in their family. Due to the financial crisis, on account of untimely death of the deceased, appellants could not file the appeal within time as they could not arrange money for Court Fees. Thereafter, there was pandemic situation (Covid-2019). It is further submitted that appellants are poor and rustic persons and unaware of legal provisions and, therefore, the delay caused is reasonable.

4. The said application is strongly opposed by learned counsel for respondents contending that the delay is not explained properly and it is on vague grounds. The delay is deliberate one and hence the application deserves to be rejected.

5. Learned counsel for the appellants submits that considering that applicant No.1 is widow; applicant Nos.2 to 4 are

daughters of deceased Ramesh, applicant No.5 is old aged mother of the deceased; there is no earning member in their family to look after them, the delay may be condoned.

6. Learned counsel for respondents reiterated submissions.

7. Admittedly, applicants have lost their earning member in an accident. Law on the point of condonation of delay is well settled. While considering applications for condonation of delay, the Court should take pragmatic and non-pedantic approach.

8. For reasons stated in the application, the application is allowed. The delay stands condoned on waiver of the interest for the delayed period. Office to register the first appeal.

9. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

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