

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

CIVIL APPLICATION (CAO) NO.449/2021
IN
MISC. CIVIL APPLICATION ST. NO.13006/2019
IN
SECOND APPEAL NO.339/2012

Pooja Traders by Proprietor Subhash G. Rath
Vs.

M/s Ganesh Traders by Proprietor Deorao Daulat Gathe and another

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

Court's or Judge's orders

Shri S.B. Mohta, Advocate h/f Shri B.N. Mohta, Advocate for appellant

CORAM : SMT. M.S. JAWALKAR, J.
DATED : 09/02/2023

The present application is filed for condonation of delay in filing restoration of appeal disposed on 08/06/2015 for non filing of paper book within the time ordered by this Court on 26/03/2015. The appellant is required to file private paper book and accordingly prepared the paper book in the last week of June, 2019. At the time of filing, it was revealed that there are orders on 26/03/2015 and 08/06/2016 and appeal was disposed of by conditional order dated 26/03/2015.

2. As learned Counsel was not aware of passing of that order, there is delay in moving application for restoration of appeal. Due to inadvertent and bonafide mistake, the paper book not to be filed within prescribed period. As such, learned Counsel for appellant prayed for condonation of delay and paper

book filed in compliance of the conditional order dated 26/03/2015 to be taken on record. The delay is explained satisfactorily.

3. The application is supported by affidavit by learned Counsel of appellant. As such, there is no impediment in condoning the delay. The present application is allowed.

4. The delay in filing restoration application is hereby condoned.

5. The Registry is directed to register the application on its original number.

MISC. CIVIL APPLICATION ST. NO.13006/2019

1. The present application is filed for restoration of appeal disposed on 08/06/2015 for non-filing of paper book within the time ordered by this Court on 26/03/2015.

2. It is submitted that appeal was admitted and substantial question of law also framed therein. As per office note, the appellant is required to file private book. Accordingly, this paper book was prepared in the last week of June, 2019 and it was to be filed on 25/06/2019 it transpired that some earlier orders on 26/03/2015 and 08/06/2015 were passed and appeal was disposed of because of the conditional order dated 26/03/2016.

3. The learned Counsel was not aware about passing of such orders. The learned Counsel for

appellant submitted that he has filed paper book along with pursis Stamp No.8228/2019. In view thereof, the application is allowed.

4. The order dated 08/06/2015 and 26/03/2015 is hereby set aside.

5. The Registry is directed to restore the appeal on its original number. The Registry to accept private paper book which is to be filed within two weeks.

6. After readmission of the same, issue notice to the respondents, returnable within three weeks intimating restoration of Second Appeal.

7. The application stands disposed of.

JUDGE

R.S. Sahare