

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

SECOND APPEAL NO.108/2023

Bhimrao s/o Annaji Holkar
 Vs.
 Mangal s/o Adinath Laad

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

Court's or Judge's orders

Shri Prasad Dharaskar, Advocate for appellant

CORAM : SMT. M.S. JAWALKAR, J.
DATED : 13/09/2023

In spite of service none for the respondent.

2. The present appeal is filed on following substantial question of law:

“i) Whether or not the learned Lower Appellate Court misplaced its finding and overlooked the order passed by the Hon’ble Supreme Court in Suo Motu Writ Petition (C) No.3 of 2020 whereby the period of limitation whereby it is directed that the period from 15/03/2020 till 28/02/2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings?”

3. It appears that the order in R.C.S. No.15/2014 came to be passed on 28/10/2021 and M.J.C. No.10/2022 along with application for condonation of delay came to be filed on 11/01/2022. The Hon’ble Apex Court issued direction in Suo Motu

Writ Petition (C) No.03/2020 that the period from 15/03/2020 till 28/02/2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings. Consequently, the balance period of limitation remaining as on 03/10/2021, if any, shall become available with effect from 01/03/2022. It is further made clear 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.

4. In view of this direction, the learned District judge ought to have allowed the application for condonation of delay i.e. M.J.C. No.10/2022. As such, the order passed by learned District Judge is apparently contrary to the direction issued by the Hon'ble Apex Court in Suo Motu Writ Petition (C) No.03/2020, therefore, liable to be set aside.

5. The substantial question of law is answered accordingly and I proceed to pass the following order:

ORDER

- i) The appeal is allowed.
- ii) The impugned order dated 29/04/2022 in M.J.C. No.10/2022 passed by District Judge Wardha is hereby set aside and M.J.C. No.10/2022 is allowed by condoning delay.

iii) The Registry of District Court, Wardha is directed to register the First Appeal.

The appeal stands disposed of.

JUDGE

R.S. Sahare