

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

CIVIL APPLICATION (CAO) NO.649/2022
IN
MISC. CIVIL APPLICATION ST. NO.12286/2022 (REVIEW)
IN
SECOND APPEAL NO.502/2002 (DECIDED ON 07/11/2019)

Ramkisan s/o Prabhatilal Agrawal

Vs.

Diwakar @ Dipankar s/o Ganpatrao Humne (dead) through LRs. Sangita wd/o
Diwakar @ Dipankar Humne and others

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

Court's or Judge's orders

Shri P.R. Agrawal, Advocate h/f Ms A.R. Sharma, Advocate
for applicant

CORAM : SMT. M.S. JAWALKAR, J.
DATED : 16/02/2023

The learned Counsel for applicant submits that the appeal was heard in absence of Counsel for respondents. In view thereof, he filed Review Application but there is a delay of around 249 days. It is contended that though he engaged Counsel to appear in his appeal, Counsel failed to appear in the matter. As such, he should suffer for mistake on the part of the Advocate.

2. It is further submitted that applicant is the decree holder and while executing the decree, objections were raised. The learned Trial Court allowed the objections. However, in appeal, the learned Appellate Court dismissed the objections. As such, present appeal was filed by the objectors which

was decided on merits in absence of Counsel for applicant. The applicant came to know only when there was notice from Tahsildar received by the applicant. The property appears to be sold to one Satpalsingh Gurucharansingh Nagra by the applicant No.1-Diwakar. In view of the facts that there was no stay in the second appeal. Inspite of service, nobody for respondent is appeared.

3. As such, for the reasons stated above, I am inclined to allow the application for condonation of delay. The application is allowed. Delay of 249 days is hereby condoned in filing application for review/recalling of the order dated 07/11/2019.

4. The Registry is directed to register the Misc. Civil Application.

5. After registration of the Misc. Civil Application, issue notice to the non-applicants, returnable within three weeks.

6. The application stands disposed of.

JUDGE

R.S. Sahare