

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

CIVIL APPLICATION (F) NO.1059 OF 2021

IN

FIRST APPEAL (ST) NO.12751 OF 2020

[Divisional Manager ..V/s.. Durga Wd/o Hiranman Kumbhare and ors.]

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

Court's or Judge's order

Mr A. M. Kukday, Advocate for Appellant.

Mrs U. A. Bhattad, Advocate for Respondent Nos.1 to 3.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 25th APRIL, 2023.

1. Present application is for condonation of delay 569 days, which is caused in preferring the appeal on the ground that summons was issued to the appellant on 01.11.2018 and was made returnable on 23.01.2019. As the appellant failed to appear, the *ex-parte* order was passed after receipt of certified copy. It is informed to the Controlling Authority that the *ex-parte* order was passed on 23.01.2019. Thereafter, the appellant could not receive the approval from Higher Official, and therefore, the delay of 569 days is caused in preferring the appeal.

2. As per the contention of the appellant, the appellant has raised statutory defence in the present appeal. The public money is involved, and therefore, the appellant should not be deprived from raising the defence and to fight the litigation on merits.

3. The said application is strongly opposed by the learned Advocate Ms Bhattad for respondent Nos.1 to 3 on the ground that the delay is not properly explained.

4. In view of the reasons mentioned in the application and

considering the statutory defence raised by the Insurance Company, opportunity is to be granted to the Insurance Company to cause its litigation on merits.

5. In view of the above, the application is allowed and delay of 569 days is hereby condoned. Appeal be registered and numbered accordingly.

6. The civil application is disposed of.

FIRST APPEAL (ST) NO.12751 OF 2020

7. Appellant to file necessary documents before the Court for final disposal of the appeal.

8. Appeal be listed for final disposal at the end of admission board on 07.06.2023.

JUDGE