

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

CIVIL APPLICATION (O) NO.673 OF 2021

IN

MISC. CIVIL APPLICATION (ST) NO.13168 OF 2020

IN

FIRST APPEAL NO.797 OF 2014

[Tanaji S/o. Yadav Tumwar ..V/s.. State of Maharashtra 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. R. Chavhan, Advocate for Applicant/Appellant.
Mr K. L. Dharmadhikari, AGP for Respondent Nos.1 and 3.
Mr Sonwane, Advocate for Respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 4th MAY, 2023.

1. Application is for condonation of delay of 535 days, which is caused in filing the restoration application.

2. As per the contention of the applicant/appellant, the conditional order was passed by this Court and directed to file the paper-book. Inadvertently, the said order was not noted by the learned Advocate for the appellant, and therefore, paper-book was not filed. As there was no compliance of the conditional order, the appeal was dismissed. The order of the dismissal was also not noted inadvertently, and therefore, the delay is caused in preferring the application. It is submitted that the mistake is committed inadvertently and the delay is not intentional one.

3. The said application is strongly opposed by learned Assistant Government Pleader for respondent Nos.1 and 3 and learned Advocate Mr Sonwane for respondent No.2 on the ground that delay is not properly explained.

4. Admittedly, the appellant is not attending the proceedings at the appellate stage and he depends upon his Advocate. The appellant has claimed the compensation under the beneficial legislation. He cannot be deprived from getting the relief for the technical reasons. In view of that delay deserves to be condoned subject to the waiver of the interest for the delayed period, which is caused in filing the restoration application.

5. In view of the above, the application is allowed and the delay of 535 days is hereby condoned subject to the waiver of the interest for the delayed period.

6. The civil application is disposed of.

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7. On filing the paper-book within eight weeks, the appeal be restored at its original stage. On failure to file the paper-book within eight weeks, the earlier order passed by this Court will survive.

8. The civil application is disposed of.

JUDGE