

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

CIVIL APPLICATION (CAO) NO. 807/2021 IN
MISC. CIVIL APPLICATION STAMP NO. 13537/2021 IN
REJ. SECOND APPEAL NO. 363/2014 (S.A.St. NO. 6394/2014)

Atul S/o Rameshrao Narad and another

Vs.

Balwant S/o Parshuramji Ghadle and others

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

Court's or Judge's orders

Shri A.S. Moon, Advocate for applicants

CORAM : SMT. M.S. JAWALKAR, J.

DATE : 19/01/2023

Present application is filed for condonation of delay in filing restoration application. On perusal of application, it appears that there is huge delay of more than six years. It is contended by the applicant that earlier Advocate has not informed about the progress of the matter and failed to remove office objections. It also appears that earlier matter was dismissed on 03/07/2014 by the order of Registrar (Judicial) for non removal of office objections. This Court vide it's order dated 23/01/2015 in Civil Application No. 1478/2014 allowed the application for condonation of delay, subject to payment of Rs.500/- as cost to the High Court Legal Services Sub Committee, Nagpur and four weeks time was granted.

2. As appellants failed to deposit amount and had filed application for extension of time for payment of costs, this Court extended time for further period of four weeks. Thereafter, Rs.500/- costs was paid on 08/03/2016. It is contended that applicant had removed all office objections except filing of certified copy and memo of appeal. Therefore, office raised objection and matter was placed before Registrar (Judicial). On 23/10/2017 Registrar (Judicial) dismissed the Second Appeal for non removal of office objections. By Order dated 23/07/2015 in Civil Application No. 1478/2014 in Misc. Civil Application Stamp No. 19482/2014 in rejected Second Appeal No. 363/2014, M.C.A. for restoration of Second Appeal was allowed with a directions to the appellants to pay costs of Rs.500/- to High Court Legal Services Sub Committee, Nagpur and office objections, if any were directed to be removed within a period of four weeks. If aforesaid directions have not been complied, earlier order refusing registration shall revive. The contention of the learned Counsel for the appellants is that in spite of the appellants were being in regular contact with the Counsel and had made an enquiry of the Second Appeal, the Counsel informed that appeal is pending. After he came to know that he can check official website for knowing the status, he came to know that on 23/10/2017 an appeal was dismissed for non removal of office objection.

3. In my considered opinion, the reason given is not at all satisfactory. In view of earlier order as extension granted by this Court to comply with the order. The appellant was very much aware that the objections are to be removed. In view of specific order that objections if any, has to be removed within a period of four weeks, no care is taken to remove the office objections. It appears that he himself filed applications for extension of time and the same was granted by this Court. The time was extended from 01/03/2016 for four weeks, which was expired around 05/04/2016 and since then no steps were taken to remove the office objections, specifically when he was aware that extension was granted to remove office objections. As such, I do not see any reason to condone the delay. No satisfactory and justifiable reason to condone huge delay of 1838 days i.e. approximately 6 years. Accordingly, application stands dismissed.

(SMT. M.S. JAWALKAR, J.)

Jayashree..