

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

WRIT PETITION NO. 5721 OF 2018

1. Daulat S/o. Yadav Murvatkar,
Aged 78 years, Occupation : Retired,
R/o. Near Tahsil Office, Armori,
Tahsil : Armori, District : Gadchiroli.
2. Ramesh S/o. Raghobaji Bidwaik,
Aged about 47 years, Occ. : Labour,
3. Sanjay S/o. Raghobaji Bidwaik,
Aged about 50 years, occu. : Labour,
4. Smt. Shantabai Raghobaji Bidwaik,
Aged about 80 years, Occ. : Labour,
2 to 4 R/o. Armori, Tahsil : Armori,
District : Gadchiroli.

.... **PETITIONERS**

// VERSUS //

1. The State of Maharashtra,
through Collector, Gadchiroli,
Tahsil & District : Gadchiroli.
2. The Sub-Divisional Officer,
Wadsa (Dsaiganj), Tahsil: Dsaiganj
(Wadsa), District : Gadchiroli.
3. The Tahsildar, Armori,
Tahsil Office Armori, District :
Gadchiroli.
4. The Deputy Superintendent of Land Records,
Armori, Tahsil : Armori, District : Gadchiroli.
5. Kisan S/o. Nama Nandanwar,
Aged about 52 years, Occ. : Labour,
R/o. Near Tahsil Office, Armori,
Tahsil – Armori, District : Gadchiroli.

.... **RESPONDENTS.**

Shri Madhur Deo, Advocate for Petitioners.
Shri H.D.Dubey, A.G.P. for Respondent Nos.1 to 4.

CORAM : ANIL S. KILOR, J.
DATED : JUNE 12, 2023.

ORAL JUDGMENT :

1. Heard.
2. **RULE.** Rule made returnable forthwith. Heard finally by consent of the learned counsel for the parties.
3. This petition raises challenge to the order dated 05/06/2018 passed below Exh.24 by Principal District Judge, Gadchiroli, rejecting application for restoration which was moved on the same day on which the civil application for condonation of delay was rejected, on the ground that the practice to get the appeal restored through the counsel on memo and the reasons appear inappropriate does not inspire confidence.
4. The said order is contrary to the judgment of the Division Bench of this Court in the case of *Sanjay Dagadappa Kapse ..vs.. State of Maharashtra*, reported in 2009(5) Mh.L.J. 900 and also the judgment of this Court in the case *Jayant ..vs.. Garware Wal Ropes Ltd.*, reported in 1997(1) Mh.L.J. 261.

5. Accordingly, I pass the following order:

- i) The Writ Petition is allowed.
- ii) The impugned order dated 05/06/2018 passed below Exh.24 by Principal District Judge, Gadchiroli is hereby quashed and set aside, consequently the application (Exh.24) is allowed.

Rule is made absolute accordingly. No order as to costs.

JUDGE

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