



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

CIVIL APPLICATION (CAO) NO. 1181 OF 2023
IN
MISC. CIVIL APPLICATION (ST.) NO. 18161 OF 2023
IN
SECOND APPEAL (ST.) NO. 4537 of 2022 (REJECTED)

PRABHAKAR S/O. SHAMRAO RAWANDALE AND ANR.

...VERSUS...

PRADIP S/O. JANRAOJI RAWANDALE AND ORS.

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

Court's or Judge's order

Shri Parth Sagdeo, Advocate h/f. Shri M.M. Agnihotri, Advocate for
appellants/applicants.

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

DATE : **14th SEPTEMBER, 2023**

The present application is filed for condonation of delay in filing application for restoration of appeal which was dismissed vide order dated 23/06/2022.

2. It appears that in pursuance of the order dated 04/01/20232 passed in W.P. No. 1720/2019, the present Second Appeal was filed, wherein, certain objections were raised and 14 days' time was granted to remove office objections by Registrar (J) on 09/06/2022. Thereafter, the matter came to be dismissed for non-removal of office objections on 23/06/2022. It is submitted that during that period, the father of the counsel was admitted in hospital and had undergone a heart surgery, therefore, the objections could not be removed in the matter. It is further submitted that as the matter could

not be restored within stipulated time, there is delay of 412 days in filing restoration application.

3. I am satisfied that there is sufficient cause for non-removal of office objections. However, no due diligence is shown by the counsel to get the matter restored. Therefore, I am inclined to allow the application subject to costs. As such, the application is allowed.

4. Delay in filing the application for restoration of the appeal is hereby condoned, subject to costs of Rs. 2,000/- to be deposited with the High Court Bar Association, Nagpur within a period of two weeks.

5. Registry is directed to register the application for restoration of the appeal i.e. MCA (St.) 18161/2023.

6. Accordingly, the application stands disposed of.

MISC. CIVIL APPLICATION (ST.) NO. 18161 OF 2023

For the reasons stated in the application, the application is allowed, subject to payment of costs as directed in above CAO No. 1181/2023.

2. Registry is directed to restore the Second Appeal (St.) No. 4537/2022 along with Civil Application (St.) No. 4538/2022.

3. After restoration of Second Appeal (St.) No. 4537/2022 along with CA (St.) No. 4538/2022, issue notice on CA (St.) No. 4538/2022 to the respondents, returnable within three weeks.

(Smt. M.S. Jawalkar, J.)