

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

CIVIL APPLICATION (CAO) NO. 34/2023 IN M.C.A ST.
19526/2022 IN RC NO. 907/2018 (FAST NO. 8591/2018)

Smt Manjula wd/o Suresh Hiwale and others V/s Sunil Uttamrao Katkar and others

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

Court's or Judge's Order

Mr U.J. Deshpande, counsel for the appellants /applicants.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 03/03/2023.

1. This application is filed for condonation of delay in filing the application for restoration of appeal.
2. As per the contention of the applicants, she had filed an application for grant of compensation. However, the learned Tribunal has awarded very meager amount of compensation. Hence, he preferred the appeal.
3. The Registrar (Judicial) has refused the registration of the first appeal on account of non-payment of requisite Court fees by the applicants within a period of seven days.
4. It is the contention of the applicant that, due to the breadwinner in the family, applicant Nos. 2 and 4 are the minor children who were facing financial crises. Applicant no.1 subsequently got service as a clerk in place of her husband. Due to her financial condition, she could not file the appeal, therefore delay of 760 days is caused for filing the restoration application.

5. Respondent Nos. 1 to 3 are already served. None appears for the respondent Nos. 1 to 3. Considering the reasons mentioned in the application that applicant No.1 is widow was not able to deposit the Court fees she was not having any earning source. Now, her financial condition is improved and she is in a position to deposit the Court fees. She had claimed the compensation under the provisions of beneficial legislation. The applicants can not be deprived from getting the enhanced compensation for technical reasons. Therefore, a liberal approach is to be taken to do substantial justice. In view of that civil application No. 34/2023 is allowed. A delay of 760 days is condoned. Subject to the waiver of the interest, if the applicants succeeds in the enhancement of the compensation.

Civil application is disposed of.

MISC. CIVIL APPLICATION ST.NO.19526/2022

In view of the reasons mentioned in the application, on depositing the deficit Court fees within one week, the appeal be restored at its registration stage.

On failure to deposit the deficit Court fee within a period of one week, the order passed by the Registrar (J) will survive.

Misc. Civil Application is allowed.

JUDGE