

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

CIVIL APPLICATION NO. 103/2023 IN S.A.ST.NO.19980/2022

Gangaram Kapurchand Damahe .vs. Fulwantabai Antu Damahe and ors.

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

Court's or Judge's orders

Mr. S. P. Kshirsagar, Advocate for applicant.

Mr. R.M. Wasnik, Advocate for non applicant nos.1, 3 & 4

CORAM : ANIL L. PANSARE, J.

DATE : 07.07.2023

By the present application, the applicant is seeking to condone the delay of 158 days in filing appeal against the judgment and decree dated 28.03.2022 passed by Principal District Judge, Gondia, dismissing the appeal being Regular Civil Appeal No.44/2015 and thereby confirming the judgment passed by trial Court in Regular Civil Suit No.37/2009, pending before the Civil Judge Junior Division, Tiroda, District Gondia.

Learned counsel for the applicant submits that the delay has been caused because the circumstances were beyond the control of the applicant in the sense it took time to collect the documents from the trial Court as well as first appellate Court and to obtain copies of certain documents including the judgment. Thus, according to him, the delay is not intentional.

Though the non applicants have not filed reply, learned counsel appearing for the non applicants submits that the delay was not properly justified.

Learned counsel for the applicant submits that the applicant was not aware of the consequences of delay and therefore failed to act properly. It appears, the delay has been caused in collecting the documents and approach the learned counsel.

Though the justification given is not as would be expected from the person like the applicant, there appears no mala fides and that therefore the applicant should be given opportunity to put forth his case on merit.

In view of above and for the reasons set out in the application, the application is allowed. The appeal be registered as per the Rules.

The application is disposed of.

(Anil L. Pansare, J.)

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