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

WRIT PETITION NO. 136 OF 2023

(Smt. Saroj wd/o. Ramchandra Dhumal and others...Vs... Umesh s/o. Laxmanrao
Nagpur and others)

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

Court's or Judge's Orders

Mr. Virat Mishra, counsel for petitioners.
Mr. M.J. Sable, counsel for respondent Nos. 1 to 3.

CORAM : AVINASH G. GHAROTE, J.
DATE : 14-12-2023

The petition questions the order dated 10.10.2022, passed below Exhibit No. 91 by the learned District Judge-17, Nagpur whereby the delay in filing cross-objection in the appeal preferred by the petitioners has been condoned at the cost of Rs. 3,000/-. It is contended that since delay was of 4 years and 7 months, it ought not to have been condoned.

2. It is not in dispute, that the judgment dated 28.11.2017, passed by the learned trial Court in Special Civil Suit No. 13/2011 is already in question at the behest of the present petitioners before the First Appellate Court in Regular Civil Suit No. 653/2017, in view of which, permitting the cross objection to be filed on record by condoning the delay would only entail the decision of the appeal and cross-objection on merits for the reason that nothing prevents the respondents, from

raising a plea regarding the findings rendered in the judgment and the learned Appellate Court exercising the powers under Order 41 Rule 33 of the Civil Procedure Code, in view of which, I do not see any reason to interfere in the order impugned. The petition is therefore, dismissed. No costs.

[AVINASH G. GHAROTE, J]

Belkhede