

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

CIVIL APPLICATION (CAS) NO.31/2023
IN
SECOND APPEAL ST. NO.21905/2022

Degraj s/o Wamanrao Khode

Vs.

Lomeshwar s/o Ramchandra Khode

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

Court's or Judge's orders

Shri P.D. Sharma, Advocate for applicant
Ms V.P. Thakre, Advocate for respondent

CORAM : SMT. M.S. JAWALKAR, J.
DATED : 11/04/2023

The present application is filed for condonation of delay. It is contended that there is delay of 316 days as per office noting. It is submitted that the delay is caused as Advocate of the appellant had never communicated him anything about passing of the impugned judgment dated 29/08/2016 in Regular Civil Appeal No.608/2016. As the record was with the earlier Counsel, some time exhausted in obtaining the record and certified copies.

2. It is stated that appellant is a poor agriculturist and could not manage to travel to Nagpur. In the month of February, 2022, he has visited the office of present Advocate at Nagpur and handed over him certified copy of judgment. It is further submitted that he is suffering from Scoliosis of Lumber Spine and due to pain to his back, his travel/

movement is restricted. At the time of filing of application, relevant documents about ailment are not placed on record. It is now handed over across the bar and marked for identification as Article "A". He also claimed exemption of period from 15/03/2020 to 28/02/2022 in view of Suo Motu Writ Petition (Civil) No.03/2020.

3. The learned Counsel for respondent vehemently opposed the application and submitted that there is no justifiable reason for condoning the delay.

4. I have heard both the parties. Though, delay is explained, however, it appears that it is not explained by mentioning clear facts. However, considering medical reason and financial difficulties, I am inclined to condone the delay subject to costs. Hence, the delay is hereby condoned. The inconvenience caused to the respondent can be taken care of by imposing costs. As such, the application is allowed.

5. The delay in filing Second Appeal is hereby condoned subject to payment of costs of Rs.10,000/- to be paid to the respondent within a period of two weeks.

6. After payment of costs, the Registry is directed to register Second Appeal.

7. List the matter for admission thereafter.
8. The learned Counsel for respondent assures this Court that till 26/04/2023, she will not press for execution.

JUDGE

R.S. Sahare