

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

WRIT PETITION NO. 8359 OF 2019

Suraj Omprakash Agrawal__ Vs. __ Umadevi Gopal Agrawal 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. H.J.Khandwani, Advocate for petitioner
Mr. R.A.Jain, Advocate for Respondent Nos. 1 to 3

CORAM : AVINASH G. GHAROTE, J.
DATE : 17/01/2023

1] Heard learned counsel appearing for the parties.

2] The petition questions the order dated 7.8.2019, whereby the application for condonation of delay in filing the application for restoration of the suit and the application for restoration of the suit have been allowed by the same order.

3] The only grievance by Mr. Khandwani, learned counsel for the petitioner is that once the application for condonation of delay was allowed, notices ought to have been issued on the application for restoration and the same was to be decided independently.

4] That such a course of action is eminently desirable is not disputed by Mr. Jain, learned counsel for

the respondents. This is also what the procedure ought to have been followed, considering which the impugned order to the extent it allows the application for restoration of the suit is hereby quashed and set aside.

5] The matter is remitted back to the learned Trial Court for re-deciding the restoration application within the period of 30 days from today.

6] The parties shall appear before the Trial Court on 20.1.2023 and no notices shall be required to be issued.

7] The reply to the restoration shall be placed on record by 20.1.2023. Petition is allowed in above terms. No costs.

JUDGE

Rvjalit