



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

Writ Petition (WP) No. 3740 of 2022

Mrs. Kumkum D/o Sachindranath Chakravorti

Versus

Rahul S/o Ramesh Mahajan

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

Court's or Judge's Order

Ms. Yoshita Paliwal, Advocate h/f Shri V.K.Paliwal,
Advocate for the petitioner.

Ms. Swati Paunikar, Advocate for the respondent.

CORAM : ANIL S. KILOR, J.

DATED : 4th APRIL, 2024.

Heard.

2. The order dated 18th September, 2021 passed by the learned District Judge No.8, Nagpur in Misc. Civil Application No. 208 of 2019, thereby allowing the application for condonation of delay in filing an appeal, is under challenge in this writ petition.

3. An *ex parte* decree was passed in favour of the petitioner for specific performance of contract by the learned 12th Joint Civil Judge, Junior Division, Nagpur vide judgment dated 17th July, 2012 in Regular Civil Suit No. 2045 of 2012.

4. It is the case of the respondent that he got knowledge about the said decree on 21st February, 2018 when he made a complaint to the police against the

petitioner alleging that the petitioner is not vacating the suit shop and thereupon, the police by way of reply informed the respondent about the *ex parte* decree. Thereafter, the respondent approached to the counsel and then took steps to file the appeal.

5. However, since there was a delay in filing appeal, he filed application for condonation of delay praying for condonation of 263 days which came to be allowed vide impugned order.

6. After going through the reasons recorded by the learned Appellate Court while allowing the application for condonation of delay, I am of the opinion that no perversity has been committed by the learned Appellate Court.

7. The learned Appellate Court has observed that the sufficient reasons are given for condonation of delay and since the subject matter of the suit is an immovable property, an opportunity needs to be given to the respondent to proceed the matter on merits, rather denying it on technical grounds.

8. In that view of the matter, since there is no perversity or illegality committed by the learned Appellate Court, the writ petition is dismissed.

[ANIL S. KILOR, J.]