



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

Civil Application [CAS] No.790 of 2023
in
Second Appeal St.No.11329 of 2023

Bhagwan Kisan Shirsat

vs.

Nababai Suryabhan Mahale 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. P.S. Wathore, Advocate for the Applicant/Appellant.

Mr. A.G. Hunge, Advocate for the Non-Applicants/Respondents.

CORAM : M.W. CHANDWANI, J.

DATE : 19th JULY, 2024.

By this application, the appellant seeks to condone the delay in preferring the appeal.

02] The contention is that though the certified copy of the judgment and decree received by the appellant on 01/09/2022, the appellant was under impression that memo of appeal is also required to file second appeal. Therefore, he applied for certified copy of the memo of appeal, which was received by him on 04/10/2022 and thereafter he visited various advocates for filing second appeal. Ultimately, in the first week of January, 2024, the appellant approached the present Counsel and accordingly the appeal was prepared. However, for want of money, the appeal could not be filed. Thereafter, there were objections as the illegible copy was supplied to the Counsel. Therefore, the delay in filing the appeal was caused. It is also contended that the appellant is an agriculturist and residing in the remote place and has various other responsibilities and, therefore, the delay in filing the appeal is caused.

03] The learned Counsel for the respondents objected the application on the ground that the delay has not been properly explained and, therefore, sought rejection of the application.

04] The appeal is a statutory right. No doubt, there is a delay, but that does not appear to be intentional or with *mala fide* intention. It is desirable that the matter should be heard on merits and not on the technical reasons. Considering the reasons, the delay caused in filing the appeal is hereby condoned. The appeal be registered. The application is allowed and disposed of accordingly.

Sec. Appeal St. No.11329/2023 :

Heard.

02] Issue notice to the respondents, returnable within three weeks.

**sandesh*

JUDGE