



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

CIVIL APPLICATION (CAO) NO.1232 OF 2024 IN
MCA ST. NO.12354 OF 2024 IN
SECOND APPEAL ST. NO.19985 OF 2022 (REJ.)

Rajesh Shaligram Jaiswal and others .Vs. Chhugaram Lahorimal Khatri

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

Court's or Judge's Order

Ms M.R. Chandurkar, Advocate for appellants.

CORAM : SANJAY A. DESHMUKH, J.
DATED : 03/10/2024

1. This is an application for condonation of delay of 506 days caused for filing application for restoration of appeal which was dismissed for non-removal of office objections.
2. Heard learned advocates for the appellants
3. Perused the application.
4. In view of the judgment in the case of ***Sheo Raj Singh (Deceased) through legal representatives and others ..vs.. Union of India and another***, reported in (2023) 10 SCC 531 as followed :

“Held, expression “sufficient cause” is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice – Expression “sufficient cause” should, therefore, be considered with pragmatism in justice-oriented approach rather than the technical detection of sufficient cause for explaining every day’s delay.”

5. ***Collector, Land Acquisition Anantnag and another ..vs.. Mst. Katiji and others***, reported in AIR 1987 SC 1353 as followed :

“3...

1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.

2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.

3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.

4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.

5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.

6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.

Making a justice-oriented approach from this perspective, there was sufficient cause for condoning the delay in the institution of the appeal. The fact that it was the 'State' which was seeking condonation and not a private party was altogether irrelevant. The doctrine of equality before law demands that all litigants, including the State as a litigant, are accorded the same treatment and the law is administered in an even handed manner. There is no warrant for according a step motherly treatment when the 'State' is the applicant praying for condonation of delay. In fact experience shows that on account of an impersonal machinery (no one in charge of the matter is directly hit or hurt by the judgment sought to be subjected to appeal) and the inherited bureaucratic methodology imbued with the note-making, file pushing, and passing-on-the-buck ethos,

delay on its part is less difficult to understand though more difficult to approve. In any event, the State which represents the collective cause of the community, does not deserve a litigant non grata status. The Courts therefore have to be informed with the spirit and philosophy of the provision in the course of the interpretation of the expression "sufficient cause". So also the same approach has to be evidenced in its application to matters at hand with the end in view to do even-handed justice on merits in preference to the approach which scuttles a decision on merits."

6. In this case, the delay is not deliberately caused. Therefore, considering ratio and law laid down by the above authorities, there are sufficient reasons to condone the delay. Thus, period of delay is not important to protect the rights of the parties. It is because civil lis must be decided on merit. The application deserves to be allowed.

7. The application is **allowed** subject to cost of Rs.2,000/- to be deposited in the office of Vidarbha Lady Lawyers' Association, Nagpur as well as the applicant shall remove office objections within **two weeks**.

8. The application is **disposed**.

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9. Heard learned advocates for both sides.

10. Perused the application.

11. For the grounds raised in the application, the application deserves to be allowed in the interest of justice. The application is **allowed** subject to removing of office

objection as well as depositing of costs of Rs.2,000/- in the office of Vidarbha Lady Lawyers' Association, Nagpur.

12. It is clarified that, if office objections are not removed and costs as ordered by this Court on application No.1232 of 2024 is not deposited within two weeks, the application shall be deemed to be rejected without further orders.

13. Application is **disposed**.

(SANJAY A. DESHMUKH, J.)