



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

CIVIL APPLICATION NO.1160/2024 IN M.C.A.ST.NO.18224/2024
IN SECOND APPEAL NO.183/2011 (D)

Smt. Vimal Sitaram Zade .Vs. Waman Sitaramji Zade

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

Court's or Judge's orders

Ms M. Munshi, Advocate for applicant.

Mr. M. A. Sable, Advocate for non applicant.

CORAM : ANIL L. PANSARE, J.

DATE : DECEMBER 17, 2024

Heard.

2. By the present application, the applicant-appellant is seeking to condone the delay of 915 days in filing application for restoration of Second Appeal No.183/2011, which was dismissed on 29.06.2018. The application is filed on 18.09.2024.

3. Counsel for the non applicant-respondent submits that since the appeal was dismissed in June, 2018, there is a delay of 2280 days. As against, counsel for the applicant-appellant submits that Covid-19 pandemic period is to be excluded.

4. I do not find substance in the submission made by the counsel for the applicant-appellant inasmuch as the benefit of exclusion of period for Covid-19 pandemic commenced on 15.03.2020 and concluded on 28.02.2022. The benefit was extended by the Hon'ble Supreme Court in the cases where the date of filing application/appeal/proceeding falls within the said period. In the present case, since the cause of action arose in the month of June, 2018, the delay ought to have been calculated from the said date.

5. In the circumstances, even if the delay as prayed for is condoned, no purpose will be served. In view thereof, the application is rejected.

6. Having rejected the application seeking to condone the delay, the application for restoration of second appeal by setting aside the order dated 29.06.2018 does not arise for consideration. Thus, no separate order is required.

(Anil L. Pansare, J.)

Kahale