



6504-2019

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

WRIT PETITION NO. 6504 OF 2019

(Sau. Sumanbai Namdeo Mendhale Vs. Ramchandra Hanmanta Dhandare & Anr.)

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

Court's or Judge's orders.

Mr. R.R. Vyas, Counsel for the petitioner.
Mr. B.C. Chandrikapure, Counsel for the respondents.

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CORAM : ANIL L. PANSARE, J.
DECEMBER 12, 2024

Heard.

2] The challenge is to order dated 29/11/2016 passed by the District Judge – 1, Chandrapur, in Regular Civil Appeal No. 184/2011, so also order dated 18/7/2019 passed by the District Judge – 1, Chandrapur, in Miscellaneous Civil Application No. 133/2017. By order dated 29/11/2016, the First Appellate Court has dismissed the appeal as not prosecuted and by order dated 18/7/2019, it has refused to condone delay in filing application for condonation of delay.

3] The contention is that the petitioner's Counsel could not attend the appeal before the First Appellate Court from August – 2016 because of ailment. The First Appellate Court, though has taken note of the aforesaid plea, found that the Counsel was absent prior to August – 2016 also, rather between the period from 2014-2016. The First Appellate Court has noted that the appeal was pending for final argument from 17/9/2014.

4] The learned Counsel for the petitioner has not placed on record, before the First Appellate Court so also this Court, any material to justify the absence of petitioner's Counsel before the First Appellate Court from 17/9/2014 to August – 2016. The First Appellate Court has further noted that affidavit of petitioner's Counsel before the First Appellate Court, as regards his ailment, was also not filed to justify his absence.

5] The learned Counsel for the respondents submits that even the documents of ailment were not placed before the First Appellate Court.

6] If that be so, except for the statement that the petitioner's Counsel before the First Appellate Court was suffering from certain ailment, there was no material to test the veracity of the statement.

7] In the circumstances, I do not find substance in the argument that the order passed by the First Appellate Court rejecting to condone delay is perverse.

8] The petition is accordingly dismissed. No costs.

(ANIL L. PANSARE, J.)

Sumit