



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

CIVIL APPLICATION (O) NO.2199 OF 2019

IN

MISC. CIVIL APPLICATION (ST) NO.20054 OF 2019

IN

SECOND APPEAL NO.255 OF 2013

[Anil Mahadeo Appa Yelgunda and Anr. **..Vs..** Sadanand Guru
Mallikarjun Swami Patharkar]

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

Court's or Judge's order

Mr O. W. Gupta, Advocate for Applicants/Appellants.
Mr S. D. Dharaskar, Advocate for Non-Applicant.

CORAM : M. W. CHANDWANI, J.

DATE : 12th JULY, 2024.

. Heard.

2. By the present application, the applicants are seeking to condone the delay in filing restoration application.

3. The contention is that the matter was listed on 08.02.2019, however, the counsel for applicants could not mark the listing of second appeal alongwith Civil Application No.149 of 2019. When the applicants were obstructed by the non-applicant on 28.09.2019, they came to know about the dismissal of there appeal.

4. Learned counsel for non-applicant objected the application on the ground that the applicants are not diligent in prosecuting the appeal, therefore, the application be rejected.

5. By order dated 08.02.2019, the appeal came to be dismissed for want of prosecution. It appears that the applicants had to remove objections in paper-book raised by registry. However, the applicants had filed application for dispense with paper-book. The matter was listed for hearing in CAS No.149 of 2019.

6. The contention is that the counsel could not mark the listing of second appeal, hence, the matter was dismissed for non removing the office objection. The application for dispensing filing of paper-book to overcome the very objection raised by the registry was pending. However, due to non-marking the listing of the case, counsel for applicants could not appear. Considering these facts, substantiate ground is made out. Hence, delay stands condoned. The appeal is restored to the file. Accordingly, CAO as well as MCA (St) are disposed of.

7. Appellants to supply the paper-book within two weeks to the respondent.

8. List the matter for final hearing as per its turn.

JUDGE