



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

SECOND APPEAL NO. 53/2015

Murlidhar Narhari Harode .Vs. Balkrishna Sadashiv Madankar

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

Court's or Judge's orders

Mr. P. D. Randive, Advocate for appellant.

Mrs. R. S. Dhole, Advocate for respondent.

CORAM : ANIL L. PANSARE, J.

DATE : DECEMBER 4, 2024

Heard.

2. The appeal has been admitted on following substantial question of law.

“Whether the first appellate Court was justified in law in refusing to condone delay in filing appeal under Section 96 of the Code of Civil Procedure?”

3. The judgment impugned before the First Appellate Court was passed on 31.07.2010. The appeal, therefore, ought to have been filed within 30 days i.e. on or before 30.08.2010. The appeal has been filed on 12.03.2013. The First Appellate Court found that there is absolutely no justification given by appellant for the period from 01.08.2010 till 03.01.2011 i.e. about 155 days equivalent to 5 months, thereafter from 04.02.2011 to 19.06.2011 for 136 days equivalent to 4 ½ months.

4. As such, there occurred delay of about 841 days, of which the appellant had tendered justification for the period from 20.06.2011 to 20.03.2012. It appears that the appellant suffered accident some time in June, 2011. He sustained 40%

disability and could not perform his routine duties during the aforesaid period. The question is whether the appellant has given any cause for the period prior thereto.

5. Despite efforts, counsel for the appellant could not show any document or evidence, that would remotely suggest that the appellant had tendered some explanation for not approaching the Court in time, particularly for the period from September, 2010 to June, 2011. Having not done so, I find that the First Appellate Court was justified in refusing to condone the delay caused in filing appeal under Section 96 of the Civil Procedure Code, 1908.

6. The substantial question of law is accordingly answered in the affirmative meaning thereby that the appellant failed to make out case. The appeal is dismissed. No order as to costs.

(Anil L. Pansare, J.)