



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

CIVIL APPLICATION (CA) NO.1205 OF 2024 IN
FIRST APPEAL ST. NO.25039 OF 2019

Laxmikant S/o Yashwant Nilawar and others .Vs. State of Mah., and others

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

Court's or Judge's Order

Shri P.P. Deshmukh, Advocate for appellants.
Ms Mukta Kavimandan, A.G.P. for respondent/State.

CORAM : SANJAY A. DESHMUKH, J.
DATED : 27/09/2024

1. This is an application for condonation of delay of 590 days caused for preferring application for restoration of appeal which was dismissed for non-removal of office objections.
2. Heard learned advocates for both sides.
3. Perused the application.
4. The learned advocate for the appellants submits that, all the office objections are already removed. Delay is not deliberately caused, the application deserves to be allowed in the interest of justice.
5. Ms Mukta Kavimandan, learned A.G.P. strongly objected the application and submits that, there is no sufficient reason to condone the delay.
6. Whether the delay has not been deliberately caused or not is important.

7. 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.”

8. ***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."

9. 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. Delay is to be liberally condoned. The application deserves to be allowed.

10. The application is **allowed**. Delay of 590 days is condoned. No. costs. Application is **disposed**.

MISC. CIVIL APPLICATION ST. NO.21197 OF 2023

1. This is an application for restoration of appeal which was dismissed for non-removal of office objections within 14 days by the Registrar.
2. Heard learned advocates for both sides.
3. Perused the application.
4. Considering submission of the learned advocate for the appellants that, all the office objections are removed, the application deserves to be allowed in the interest of justice.
5. The application is **allowed** and **disposed**.

CIVIL APPLICATION St. No.25041 OF 2019

1. Issue notice to the respondents.
2. The learned A.G.P. waives service of the notice for the respondent Nos.1 and 2/State.
3. Shri Kadu, learned advocate waives service of notice for the respondent No.3.
4. This is an application for condonation of delay of 3788 days.
5. Heard learned advocates for both sides.
6. Perused the application.
7. The learned A.G.P. strongly objected the application and submitted that, there is no sufficient reason to allow the application.
8. The Application is **allowed** and **disposed**.

FIRST APPEAL ST. NO.25039 OF 2019

1. Heard.
2. **ADMIT.**
3. Call record and proceedings.
4. Issue notice to the respondents.
5. The learned A.G.P. waives service of the notice for the respondent Nos.1 and 2/State.
6. Shri Kadu, learned advocate waives service for the respondent No.3.
7. Stand over after **three weeks**.

(SANJAY A. DESHMUKH, J.)