



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

CIVIL APPLICATION (S) NO.21 OF 2019

IN

SECOND APPEAL (ST) NO.25776 OF 2017

[Prakash Waman Atkar and Ors. ..Vs.. Aruna Ajabrao Barai and Ors]

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

Court's or Judge's order

Ms T. Agre, Adv. h/f Mr S. P. Bhandarkar, Advocate for Applicants.

Mr T. A. Mirza, Adv. h/f Mr A. M. Quazi, Advocate for Non-Applicant No.1.

CORAM : M. W. CHANDWANI, J.

DATE : 22nd JULY, 2024.

. Heard.

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

3. Learned counsel for applicants/appellants submits that the applicants are poor persons and due to paucity of fund, they could not arrange the amount for challenging the judgment and decree dated 22.03.2017, therefore, the delay is occurred in filing the appeal. It is a matter of record that due to non supplying the correct address of non-applicant Nos.3 and 5, the application against those non-applicants came to be dismissed. Whereas, non-applicant Nos.4 and 6 died and no step has been taken for bringing legal heirs of those non-applicants on record.

4. Application is opposed by the non-applicants on the ground that the delay has not been properly explained.

5. For the reasons mentioned in the application coupled with the fact that the appeal is a statutory right of the applicants, and therefore, substantial justice cannot be denied for technical reason, particularly when the delay does not appear to be *malafide*, hence, delay in filing the appeal is hereby condoned. The appeal be registered against non-applicant Nos.1 and 2 only.

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6. Heard.

7. Issue notice to the respondents, returnable within three weeks.

8. Mr T. A. Mirza holding for Mr A. M. Quazi, learned counsel, waives notice on behalf of respondent Nos.1 and 2.

JUDGE