



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

CIVIL APPLICATION (CAO) NO.1329 OF 2024

IN

MCA ST. NO. 20150 OF 2024

IN

MCA ST. NO. 27576 OF 2018

IN

FIRST APPEAL ST. NO.24516 OF 2017

THE EXECUTIVE ENGINEER, MINOR IRRIGATION PROJECT, WARDHA

Vrs.

DASHRATH S/O RAMBHAU DESHMUKH AND OTHERS

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

Court's or Judge's Order

Ms. A.S. Athalye, Advocate for applicant/appellant.
Ms.Mukta Kavimandan, AGP for respondent Nos.7 and 8.

CORAM: SANJAY A. DESHMUKH, J.

DATE : 24/10/2024.

1. This is an application for condonation of delay of 1352 days caused for filing the application for restoration of appeal.
2. Perused the application.
3. Heard learned advocates for both sides.
4. Learned advocate for the applicant submitted that earlier counsel did not follow this matter. Therefore, the application for restoration of appeal was not filed within limitation. The appeal was also dismissed because of not following the procedure and directions of this Court. Now, the applicant is ready to follow the directions of this Court and procedure prescribed by law.
5. Learned advocate for the applicant submitted that delay is not deliberately caused.

6. The Hon'ble Supreme Court has laid down the law in the following cases while condoning the delay:-

1] New Okhla Industrial Development Authority v. Rameshwar @ Ramesh Chandra Sharma (Dead), through Legal Heir and another (2022 SCC Online SC 1599).

2] Collector, Land Acquisition Anantnag and another ..vs.. Mst. Katiji and others, reported in AIR 1987 SC 1353.

3] Sheo Raj Singh (Deceased) through legal representatives and others ..vs.. Union of India and another, reported in (2023) 10 SCC 531.

7. Considering the fact that delay is not deliberately caused, the application deserves to be allowed.

8. The application is allowed. Delay of 1352 days is condoned, in the interest of justice.

9. The application is allowed subject to deposit of costs of Rs.1,000/- within four weeks in the office of Vidarbha Lady Lawyers' Association, Nagpur.

10. The application is disposed of.

MCA ST. NO.20150 OF 2024

11. This is an application for restoration of MCA St.No.27576/2018.

12. Perused the application.

13. Heard learned advocates for both sides.

14. It appears that because of not following the directions by earlier advocate, the appeal was dismissed. It further appears that the steps were not deliberately taken.

15. The application is allowed and disposed of.

CAF ST. NO.27577 OF 2018

16. This is an application for condonation of delay of 216 days caused for filing application for restoration of First Appeal St.No.24516/2017.

17. Perused the application.

18. Heard learned advocates for both sides.

19. The delay of 216 days was caused because of earlier advocate. Due to oversight, learned advocate for the applicant could not remove the office objections. It appears that the delay is not deliberately cause.

20. Considering all these aspects, the application is allowed, in the interest of justice. Delay of 216 days is condoned.

21. The application is disposed of.

MCA ST. NO.27576 OF 2018

22. This is an application for restoration of First Appeal St.No.24516/2017.

23. Perused the application.

24. Heard learned advocates for both sides.

25. Considering the reasons stated in the application, the application deserves to be allowed.

26. The application is allowed and disposed.

CAF ST. NO.24517 OF 2017

27. Issue notice to the respondents.

28. Ms. Mukta Kavimandan, learned AGP waives service of notice for respondent Nos.7 and 8.

29. Learned advocate for the applicant pointed out that by mistake, respondent No.5 is not given in the array of respondents.

30. The permission is, therefore granted to carry out amendment. Amendment be carried out forthwith.

[SANJAY A. DESHMUKH, J.]

Choulwar