



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

CIVIL APPLICATION (CAO) NO. 1519 OF 2024

IN

MCA ST. NO. 23183 OF 2024

IN

FIRST APPEAL NO. 1091 OF 2023 (D)

HAMIDKHA HUSSAINKHA

Vrs.

STATE OF MAHARASHTRA 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 Paras Rathi, Advocate h/f Shri Abhijeet Deshmukh, Advocate for
applicant/appellant.

Shri M. A. Kadu, AGP for respondent Nos.1 and 2.

Shri Uday Gosavi, Advocate for respondent No.3.

CORAM: SANJAY A. DESHMUKH, J.

DATE : 09/12/2024.

1. This is an application for condonation of delay of 139 days caused for filing application for restoration of appeal, which was dismissed for non-filing of paper book.

2. Learned advocate for the applicant submitted that paper book was not filed as per the directions of this Court within time. He further submitted that paper book is filed in another First Appeal No.1094/2023 that can be useful for deciding this appeal and therefore, it is not necessary to file separate paper book. He, therefore, prayed to dispense with filing of paper book. He submitted that because of the assumption that the paper book will be

useful in this appeal, the applicant could not file paper book within time.

3. Learned AGP for respondent Nos.1 and 2 strongly objected the application and submitted that there is no sufficient reason to condone the delay.

4. Considering the fact that the valuable rights of the applicant are decided on merit, the application deserves to be allowed, in the interest of justice. Delay is not deliberately caused. The application, therefore deserves to be allowed.

5. Application is allowed. Delay of 139 days is condoned.

6. Application is disposed of.

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7. This is an application for restoration of appeal which was dismissed for non-filing of paper book within time.

8. Learned advocate for the applicant pointed out that paper book in First Appeal No.1094/2023 can be useful for deciding this appeal. He, therefore, seeks leave to dispense with the filing of paper book.

9. Filing of paper book is dispensed with.

10. Considering the reasons, it would be proper to allow the application as prayed, in the interest of justice.

11. Application is allowed and disposed of.

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12. Issue notice to the respondents.

13. Shri M. A. Kadu, learned AGP waives service of notice for respondent Nos.1 and 2.
14. Shri Uday Gosavi, learned advocate waives service of notice for respondent No.3.
15. Learned advocate for the appellant is directed to provide the relevant documents and copy of memo of appeal to the learned advocates for the respondents.
16. Stand over after six weeks.

[SANJAY A. DESHMUKH, J.]

Choulwar