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932 CA 5385 OF 2025

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

932 CIVIL APPLICATION NO. 5385 OF 2025 IN SAST/21921/2022

MAHESH VIJAYKUMAR MALIWAL

VERSUS

THE STATE OF MAHARASHTRA, THROUGH THE COLLECTOR,

...

- Mr. A. A. Pimpalwadkar, Advocate for Applicant
- Mr. S. K. Shirse, AGP for Respondent Nos.1 to 4

...

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : 02.07.2025

PER COURT :-

1. This is an application for restoration of the Second Appeal by condoning the delay of 790 days.
2. Heard Advocate A. A. Pimpalwadkar for the applicant. The learned AGP waives service of notice on behalf of respondent Nos.1 to 4.
3. The learned counsel for the applicant submits that the Second Appeal was filed in August 2022, and the office objections remained to be removed. He submits that the office objections were not removed due to 'oversight and inadvertence' within the stipulated time. The applicant states

that he is now ready to remove office objections and prays for restoration of the Second Appeal by condoning the delay of 790 days.

4. The learned AGP for the respondents strongly opposes the application and points out that there are no reasons explaining the inordinate delay of 790 days.

5. The registration of the Second Appeal came to be refused by an order dated 19.10.2022 passed by the Registrar (Judicial), which specifically records that this Second Appeal, along with others was listed for the third time on the board of Registrar (Judicial), and the office objections were not removed. By order dated 19.10.2022, again two weeks time was granted to the applicant to remove the office objections and on failure thereof, the registration was ordered to be automatically refused. As a consequence of this order, the registration of the instant Second Appeal was refused. The reasons mentioned in the application as 'oversight and inadvertence' are too general in nature and do not demonstrate any plausible explanation for the delay. The delay of 790 days ought to have been explained by the applicant by giving proper explanation.

6. Having regard to the contentions advanced, only in the interest of justice to allow the applicant to contest the Second Appeal on merits, the application needs to be allowed, however, subject to cost of Rs.2500/- to be paid to the **Advocate Association's Bar Library, High Court, Aurangabad**, within two weeks from today.

7. The applicant is permitted to remove the office objections within two weeks. On removal of office objections, the Second Appeal be registered.

(PRAFULLA S. KHUBALKAR, J.)

PRW