



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

CIVIL APPLICATION (F) NO.3253 OF 2024 IN
FIRST APPEAL NO.535 OF 2015

[Sadbhav Engineering Limited and Ors. **..Vs..** M/s Sarda Energy and
Minerals Limited]

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

Court's or Judge's order

Mr A. P. Dubey, Advocate for Applicants/Appellants.

Mr/s S. P. Kothari, Advocate for Non-Applicant/Respondent.

CORAM : M. W. CHANDWANI, J.

DATE : 28th MARCH, 2025.

1. Pursuant to the direction of this Court, the amount of Rs.21,15,743/- has been deposited by the appellants towards part of decretal amount. However, due to increase of pecuniary jurisdiction of the District Court, the appeal was sent to the learned District Court, Nagpur for deciding according to law. However, the amount remained to be transferred. It is not in dispute that the first appeal has been dismissed by the learned District Judge, Nagpur, confirming the decree of Rs.31,07,694/- alongwith interest mentioned in the decree. Therefore, I see no hurdle in allowing the application to withdraw the amount deposited by the appellants in spite of their objection. Registry is directed to allow the respondent/original plaintiff to the amount of Rs.21,15,743/- alongwith accrued interest thereon.

2. Accordingly, the application is disposed of.

CIVIL APPLICATION (S) NO.183 OF 2025 IN SECOND
APPEAL (ST) NO.4219 OF 2025

3. Heard.

4. This is an application for condonation of delay of 141 caused in filing the second appeal.

5. The contention is that the judgment came to be passed by the learned District Judge, Nagpur on 04.07.2024 in Regular Civil Appeal No.236 of 2016. However, the applicants were not communicated the order of dismissal of the appeal by the counsel. When, the applicants' authorized representative visited Nagpur on 30.12.2024, he came to know about passing of the impugned judgment and decree by the learned First Appellate Court. Accordingly, he applied for certified copy and filed the appeal, wherein the delay of 141 days is caused.

6. The application is opposed by the non-applicant objecting the delay. The contention is that the money decree has been passed and two concurrent findings are already in favour of the respondent, therefore, the application be rejected.

7. Considering the reasons mentioned in the application coupled with the fact that for technical reason, the substantial justice cannot be denied. Therefore, the delay in filing the second appeal is hereby condoned subject to payment of costs of Rs.5,000/- with Tirora Bar Association. So far as the submission of the learned counsel for the respondent that the money decree cannot be entertained in a second appeal, that issue will be considered in the appeal.

8. In above said terms, the application is disposed of. The appeal be registered and numbered accordingly.

JUDGE