



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

Second Appeal No.25 of 2024

Prabhakar s/o Shamrao Rawandale and another

vs.

Pradip s/o Janraoji Rawandale and others

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

Court's or Judge's Orders

*Mr. M.M. Agnihotri a/w Mr. Mayank Agnihotri, Advocate for the Appellants.
Mr. P.G. Waghmare, Advocate for the Respondents.*

CORAM: ROHIT W. JOSHI, J.

DATE : 24th SEPTEMBER, 2025.

The present appeal is filed challenging the order dated 22/04/2019 passed by the learned Ad-hoc District Judge-1, Wardha in M.J.C. No.54/2018 thereby rejecting application for condonation of delay in filing application for restoration of appeal, which was dismissed for want of prosecution.

02. Initially, the order was challenged by filing a petition, which was registered as Writ Petition No.1720/2020. When the petition was listed for hearing before the Court on 04/01/2022, a submission was made on behalf of the present appellants/petitioners that the challenge to the order impugned in the petition ought to have been raised by filing a second appeal. In view of that, this Court permitted the petitioners to withdraw the petition with liberty to file a second appeal. Accordingly, the present second appeal is filed.

03. By the order impugned, the learned Appellate Court has rejected application for condonation of delay in filing a restoration application. The consequence of the order impugned is that restoration application is rejected.

04. An order passed below application for restoration of first appeal cannot be a subject matter of the second appeal, since the same does not result in a decree. Under Section 100 of the Code of Civil Procedure, the second appeal can be entertained only against a decree passed by the First Appellate Court.

05. In view of above, the second appeal is not maintainable. The second appeal is, therefore, dismissed with liberty to the appellants to avail of appropriate remedy in order to assail the impugned order dated 22/04/2019 passed by the learned Ad-hoc District Judge-1, Wardha in M.J.C. No.54/2018.

06. At this stage, the learned Advocate for the appellants makes a motion requesting to extend order dated 07/10/2023 for a period of four weeks. The learned Advocate for the respondents raises a strong objection and contends that the appeal was dismissed for want of prosecution long back and the application for condonation of delay in filing restoration application is also rightly rejected.

07. However, having regard to the fact that interim order dated 07/10/2023 is operating almost for a period of two years, in the considered opinion of this Court, it will be appropriate to extend the same further up to 13th October, 2025.

JUDGE

**sandesh*