

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

CIVIL APPLICATION (CAO) NO. 376/2022 IN MCA (ST) NO. 5275/2022 IN
MISC CIVIL APPLICATION (MCA) ST. NO. 4440/2018 IN SECOND APPEAL NO. 383/2014

(Vilas s/o Damodhar Bharguwar Vs. Sau. Vidya Vinayrao Dixit & ors.)

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

Court's or Judge's orders

Mr. S.P. Bhandarkar, Advocate for applicants/appellant.
 Mr. N.R. Bhishikar, Advocate for respondent No.2

CORAM: ROHIT W. JOSHI, J.

DATED : 06/05/2025.

Heard.

2. The second appeal was dismissed on account of failure on part of the appellant to take steps for effecting service on some of the respondents. The appellant therefore, filed Miscellaneous Civil Application (ST) No. 4440/2018 for restoration second appeal along with application for condonation of delay. Registration of said application was refused vide order dated 03.05.2018. The appellant has filed MCA (ST) No. 5275/2022 challenging the order refusing registration of MCA (ST) No. 4440/2018 along with application for condonation of delay i.e. CAO No. 376/2022.

3. The appellant is contesting the litigation since the year 1986. The second appeal was dismissed in default on account of reasons attributed to Advocate and his clerk. It is well settled that a litigant should not be made to suffer on account of lapse on part of the Advocate and his clerk. In

that view of the matter although learned counsel for respondents has strongly opposed application, the application for condonation of delay is allowed subject of cost of Rs. 10,000/- payable to the High Court IV Class Employees Union, Nagpur. The cost be paid within a period of two weeks from today, subject to payment of cost, the delay in filing MCA (ST) No. 5275/2022 stands condoned.

MCA(ST) NO. 5275/2022

1. For the reasons mentioned above, MCA (ST) No. 5275/2022 is allowed and accordingly, civil application (ST) No. 4441/2018 and MCA (ST) No. 4440/2018 are restored to file.

CAO (ST) NO. 4441/2018

1. For the reasons mentioned above, application is allowed.

MCA ST No. 4440/2018.

1. For the reasons mentioned above, application is allowed.

SECOND APPEAL 383/2014

1. Second appeal 383/2014 is restored to file on the condition that the appellant shall positively argue the appeal for admission on the next date without seeking any adjournment.

2. Put up this matter for further consideration on 11.07.2025.

(ROHIT W. JOSHI, J.)

Gohane