



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

Civil Application [MCA] No.57 of 2025
in
Appeal Against Order No.23 of 2023 (D)

Surendra s/o Ramprasad Upadhye

vs.

Smt. Manjulabai wd/o Rameshwar Tidgam and another

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

Court's or Judge's Orders

*Mr. P.A. Dharaskar, Advocate for the Applicant/Appellant appeared through V.C.
Ms. Vidhya Umale, Advocate for Non-Applicant/Respondent No.2.*

CORAM : ANIL L. PANSARE, J.

DATE : 23rd APRIL, 2025.

Heard.

02. By the present application, the applicant/appellant is seeking to restore the appeal to file. It appears that on 04/04/2024, the appeal was dismissed under Order XLI Rule 17 read with Order XLIII Rule 3 of the Code of Civil Procedure, 1908.

03. Learned Counsel for the applicant/appellant submits that he will diligently attend the appeal and seeks opportunity.

04. Learned Counsel for respondent No.2 has opposed the application on the count that it is the duty of the appellant to appear personally or through the Counsel on the date fixed by the Court.

05. True it is that, the litigants are duty bound to appear personally or through the Counsel on the date fixed by the Court. However, the Counsel appears to have failed to prosecute the appeal on previous date, which is not a successive absent.

06. In the circumstances, on the basis of the assurance given by the Counsel for the appellant, one opportunity can be given to the appellant to prosecute the appeal.

07. Accordingly, the order dated 04/04/2024 passed by this Court is recalled. Appeal Against Order No.23 of 2023 is restored to file.

08. List after summer vacation.

(Anil L. Pansare, J.)

**sandesh*