



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

CIVIL APPLICATION (CAF) NO. 1757 OF 2025

IN

FIRST APPEAL NO. 1951 OF 2019

(The National Insurance Co. Ltd. vs.. Sheetal wd/o Roshan Sadhwani and others)

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

Court's or Judge's orders

Mr. V.P. Maldhure, Advocate for the appellant,
Mr. P.P. Pendke, Advocate for respondent Nos. 1 to 3,
Mr. R. Siddhartha, Advocate for respondent No. 4.

CORAM : ABHAY J. MANTRI, J.

DATED : 28-07-2025

The applicant/appellant has filed this application to restore the first appeal against respondent No. 4 to its original position, for which the learned Advocate for respondent Nos. 1 to 3 have given no objection; but the learned Advocate for respondent No. 4 has strongly objected the said application; however, submitted that the application may be allowed subject to heavy costs.

2. Having considered the reasons disclosed in the application and no objection given by the learned advocate for respondent Nos. 1 to 3 as well as submission of respondent No. 4 and after gone through the record, it seems that by order dated 23-04-2019 the appeal was dismissed for non-taking the steps against respondent No. 4, however, for a further period of six years, the applicant has not taken any steps despite he was knowing about the same. It further appears that there is a six-year delay in filing the application for restoration of the first appeal against respondent No. 4; however, the appellant has not filed an application for condonation of delay while preferring

the said application. Insofar as, after issuance of notice on this application, a copy of the application was not supplied to the office, which caused further delay in the proceedings.

3. The learned Advocate for the applicant/appellant submitted that on 23-04-2019, Advocate Mr. Ajay Joshi had filed power on behalf of respondent No. 4; however, the learned Registrar (J), without noticing the filing of the power by Advocate Mr. Joshi on behalf of respondent No. 4, has passed the impugned order. On query, he failed to point this out to the Court. Similarly, the applicant/appellant has not given any reason why there is a delay of more than six years for filing the restoration application when the appellant was aware of the said fact on the day of dismissal of the appeal.

4. Moreover, on perusal of the impugned order, it reveals that notice of respondent No. 4 was returned unserved for want of correct address, therefore, prima facie I do not find substance in the contention of learned Advocate for the appellant that Advocate Mr. Ajay Joshi had appeared on behalf of respondent No. 4. Besides, it seems that the learned Registrar (J) had granted opportunities on 15-01-2019, 20-02-2019, 19-03-2019 and lastly on 09-04-2019. Despite granting opportunities, the appellant failed to take steps to serve respondent No. 4. This fact indicates that the applicant was negligent in taking the necessary steps and complying with the order of the learned Registrar (J).

5. Having considered the above facts, and in the absence of filing of the application for condonation of the delay in filing

this application, and submissions of the learned Advocate of respondent No.4 against whom the appeal was dismissed, in my view, in the interest of the justice the delay caused in filing this application has to be condoned and this application needs to be allowed, subject to costs of Rs.10,000/-. The learned Advocate for respondent No. 4, although opposed to the application and gave no objection to allow it subject to heavy costs, has not claimed it for respondent No. 4, and he has given no objection to paying the costs to the High Court Bar Library, Nagpur.

6. As such, this application is allowed, subject to the costs of Rs. 10,000/- (Rupees Ten Thousand) to be deposited with the High Court Bar Library, Nagpur, within two weeks. On deposit of the said costs, the delay shall be condoned, and the appeal shall be restored to its original position against respondent No.4.

FIRST APPEAL NO. 1951 OF 2019

The learned Advocate for respondent No. 4 waives service of notice on behalf of respondent No. 4 and submits that the appellant be directed to supply the copies of the appeal memo with annexures to it. The learned Advocate for the appellant undertakes to supply the copies of the appeal memo with annexures to the learned Advocate for respondent No. 4 within two weeks.

(ABHAY J. MANTRI, J.)