



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

CIVIL APPLICATION (CAO) NO. 1396 OF 2024
IN
MISC. CIVIL APPLICATION STAMP NO. 12261 OF 2024
IN
FIRST APPEAL NO. 409 OF 2014

The Executive Engineer, Lower Wardha Canal Division, Wardha
 Vs.

Dnyaneshwar Sheshrao Pande and others

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

Court's or Judge's orders

Ms A.S. Athalye, Advocate for appellant
 Shri S.V. Sohoni, Advocate for respondent No.1
 Shri M.A. Kadu, AGP for respondent/State

CORAM : SHRI ABHAY J. MANTRI, J.

DATED : 23.07.2025

Heard learned Counsel for both parties.

2. These applications are filed to condone the delay in filing the restoration application and application to restore the appeal to its original position, which was dismissed for non-filing of the paper book within the prescribed time.

3. Learned Counsel for the applicant submitted that on 13/01/2017, she had filed the Vakalatnama in the matter, and the matter was listed on 07/03/2017; however, her name was not shown in the cause list, and therefore, she did not mark the said matter, so she could not attend the matter. Consequently, she was unaware of the passing of the order, and the order had not been complied with. The said factual position is not disputed by the learned Counsel for

respondent No. 1. However, he has objected to the application on the ground that there is a huge delay in filing the application. It is pertinent to note that despite respondent No. 1 appearing in the matter on 31/01/2025, he failed to file a reply to the application, which itself leads to the inference that he does not wish to oppose the claim of the applicant. Therefore, he could not file a reply.

4. Having considered the reasons disclosed in the application that her name was not listed in the cause list and therefore the matter could not be marked by her and failed to comply the order as well as considering her undertaking that she is ready to submit the paper book within four weeks and supply a copy of the paper book to the other side, I deem it appropriate that, to afford an opportunity to the applicant to contest the matter on merit. Thus, I do not find substance in the objection raised by the learned Counsel for the respondent. In view of the above, both applications are allowed as prayed. As such, the delay shall be condoned and the appeal be restored to its original position.

5. List the matter on 20/08/2025, on final hearing board.

6. Call for record and proceedings, if it is returned.

(ABHAY J. MANTRI, J.)