



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

CIVIL APPLICATION (CAO) NO. 1292/2024 IN MCA (ST) NO. 19804/2024 IN
SECOND APPEAL NO. 433/2011 (D)

(Pushpa wd/o. Vilas Padole & ors. Vs. Smt. Kausalyabai @ Sushilabai w/o Kawaduji Mehar & ors.)

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

Court's or Judge's orders

Mr. A.A. Mardikar, Advocate for appellants/applicants.
 Mr. P.R. Puri, Advocate for respondent Nos. 2 & 4.

CORAM: ROHIT W. JOSHI, J.
DATED : 06/05/2025.

Heard.

2. Second appeal No. 433/2011 came to be dismissed for want of prosecution vide order dated 30.04.2024 passed by this Court. Learned counsel representing the appellants did not appear in the matter, as a consequence of which, this Court was constrained to dismiss the appeal in default.

3. The appellants have moved application vide MCA (ST) No. 19804/2024 for restoration of second appeal. There is delay of 130 days in filing restoration application. The present application is filed seeking condonation of delay in filing restoration application. It is stated in the application that learned counsel appearing for the appellants did not inform them about dismissal of the appeal and the appellants came to know about dismissal of appeal on receiving notice from this Court.

4. The delay is properly explained. It is well settled that litigants should not be made to suffer for fault or lapse on part of their Advocate. Second appeal was admitted in the year 2011 and the appellants are contesting litigation diligently since the year 2001. In that view of the matter, delay caused deserves to be condoned and is condoned accordingly.

MCA (ST) NO. 19804/2024

1. Heard.
2. For the reasons mentioned in application, second appeal No. 433/2011 is restored to file by recalling the order dated 30.04.2024.
3. Since the appeal is of the year 2011, at the joint request of learned counsel for parties, list second appeal for final hearing in the week commencing from 23.06.2025.

(ROHIT W. JOSHI, J.)