



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

CIVIL APPLICATION (CAO) NO. 1496/2024 IN
MISC. CIVIL APPLICATION STAMP NO. 20610/2024 IN
SECOND APPEAL NO. 217/2009(D)

(Vinod Vitthalrao Deshmukh (dead) thr. Lrs. Vs. Ashwini d/o Manoj Deshmukh & ors.)

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

Court's or Judge's orders

Mr. M.V. Bute, Advocate for applicant.

CORAM: ROHIT W. JOSHI, J.
DATED : 15/04/2025.

Heard.

2. The second appeal came to be dismissed for want of prosecution vide order dated 23.06.2023. The sole appellant has expired on 28.04.2023 i.e. before dismissal of second appeal in default. The legal representatives of the original appellant has filed MCA (ST) No. 20610/2024 for restoration of second appeal. Since there is delay in filing said application, Civil Application No. 1496/2024 is filed seeking condonation of delay in filing restoration application.

3. It appears from the record that the appeal came to be dismissed on account of non-appearance of learned counsel for appellant. It is well settled that a litigant should not suffer for any lapse on the part of his Advocate. In that view of the matter, though the application is strongly opposed by the respondents, I am inclined to condone the

delay caused in filing restoration application and also to restore to the appeal.

4. Civil Application No. 1496/2024 in MCA (ST) No. 20610/2024 and MCA (ST) No. 20610/2024 are accordingly allowed.

5. The appeal is restored on the condition that appellant shall not seek any further accommodation for final hearing of the appeal.

CIVIL APPLICATION (CAO) NO. 1497/2024 AND
CIVIL APPLICATION (CAO) NO. 1498/2024

1. Heard.

2. For the reasons mentioned in the application, delay caused in filing application for bringing legal representatives on record is condoned, abatement of appeal is set aside and permission is granted to bring legal representatives of deceased appellant on record.

3. Civil applications stand disposed of accordingly.

(ROHIT W. JOSHI, J.)