



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

CIVIL APPLICATION (CAS) NO. 188 OF 2024
IN
SECOND APPEAL (ST) NO. 3335 OF 2024

Gopal Maroti Meshram

Vs.

Sevak Ganpat Bodele and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Ms. P. D. Pisurade h/f. Shri S. V. Sirpurkar, Advocate for applicant.
Shri T. A. Mirza, Advocate for non-applicants.

CORAM :- M. W. CHANDWANI, J.

DATED :- 12.03.2025

Heard.

2. The application has been filed for condonation of delay of 103 days caused in filing the Second Appeal. The contention is that delay was caused in getting the certified copy of the judgment as well as the documents of the case. The further contention is that after receipt of the certified copy of the judgment, the counsel for the applicant suggested to have additional documents which the applicant got after filing an application for certified copy. Apart from that, it is also mentioned that the applicant was unaware of the provisions of law and therefore, the delay was caused.

3. The application is vehemently opposed by the learned counsel for the non-applicants and submitted

that the delay has to be explained properly. According to him, the delay has not been satisfactorily and properly explained and therefore, the delay cannot be condoned just because the applicant was unaware of the provisions of law.

4. To buttress his submission, he seeks to rely on the decision of the Supreme Court in the case of *Pathapati Subba Reddy Vs. Special Deputy Collector [2024 SCC Online SC 513]*, wherein the Supreme Court has reiterated that delay cannot be condoned if sufficient cause is not properly, satisfactorily and convincingly explained. Sufficient cause can be established by various factors i.e. inordinate delay, negligence or for want of due diligence and bonafides on the part of the applicant. It is stated by the applicant on affidavit that the certified copy of the judgment was received after 10 days and these 10 days are to be excluded from limitation. After that, the counsel suggested the applicant to get certified copy of other documents to prefer the Second Appeal which he got 28 days thereafter. Thus, a total of 38 days are to be excluded from the said delay period.

5. It cannot be ignored that while preparing the Second Appeal, all documents are required. That apart, there is nothing on record to show that by causing the delay, the applicant has been benefited. There is nothing on record to show that the delay is not a bonafide one. No doubt, the Second Appeal has been filed for rejection

of the application for condonation of delay in preferring the First Appeal but, this fact cannot be imported while considering the application for condoning the delay in preferring the Second Appeal. That apart, substantial justice cannot be denied for technical reasons.

6. Therefore, the application is allowed subject to payment of costs of Rs.1,000/- to the High Court Legal Services Sub-Committee, Nagpur. The appeal be registered.

(M. W. CHANDWANI, J.)