



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

CIVIL APPLICATION (CAO) NO.815 OF 2024 IN
MISC. CIVIL APPLICATION ST. NO.11022 OF 2024 IN
SECOND APPEAL NO.260 OF 2001

Urmilabai W/o Harishchandra Ghasale (dead) Kamlaprasad S/o Baliram Motghare
and another .Vs. Nazir Mohd S/o Mohd. Sheikh (Dead) through LRs. Ramzan Nazir
Mohammad Sheikh and others

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

Court's or Judge's Order

CORAM : ROHIT W. JOSHI, J.
DATE : 07/01/2026

1. The learned Advocate for the appellants has filed Pursis dated 25.07.2024 intimating that the appellant No.1, namely Urmilabai Harishchandara Ghasale, has expired on 15.11.2013. Perusal of the judgment passed by the learned trial Court will indicate that the deceased appellant No.1, who is the original defendant No.1, had executed sale deed with respect to the suit property in favour of defendant No.3, who is appellant No.3 in the present appeal. The estate of deceased appellant No.1 in the suit property will therefore be represented by appellant No.1. Name of appellant No.1 is therefore ordered to be deleted.

2. Despite being served with the notice, the respondent Nos.1 and 3 have not entered appearance in the matter. Name of respondent No.2 is ordered to be deleted.

3. Second Appeal No.260 of 2001 was dismissed for want of prosecution on 07.10.2016.

4. This is an application seeking condonation of delay in filing application for restoration of the said second appeal. There is a delay of 2061 days in filing the restoration application. It is stated in the application that the learned Advocate representing the appellants in the second appeal had left for heavenly abode while the appeal is pending and upon receiving notice to engage another advocate, the appellants had contacted an advocate at Nagpur in order to represent them in the appeal. It is stated that the appellants were made to understand that the appeal is pending on enquiries being made from the said advocate.

5. Having regard to the fact that the parties are litigating since the year 1990 and the appeal filed in the year 2001 was pending for around 15 years before it was dismissed for want of prosecution on 07.10.2016, coupled with the fact that the respondents have chosen not to contest the application, the application for condonation of delay in filing restoration of appeal is **allowed**. However, having regard to the delay caused, it will be appropriate to impose costs of Rs.10,000/- to be paid by the appellants to the Advocate Bar Association at Bhandara.

6. For the reasons mentioned above, Misc. Civil Application St. No.11022 of 2024 is **allowed**. Second Appeal No.260 of 2001 is restored.

SECOND APPEAL NO.260 OF 2001

7. Issue fresh notice to the respondents, returnable on **06.03.2026**.

8. The appellants are directed to serve the respondents by speed post in addition to regular mode of service and file affidavit of service before the returnable date.

(ROHIT W. JOSHI, J.)

C.L. Dhakate