

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1002 OF 2006

1. The State of Maharashtra,
Through Executive Engineer,
Beed Irrigation Division,
Beed.

2. Superintending Engineer,
Osmanabad Irrigation Circle,
Osmanabad at Post Osmanabad,
Tq. and Dist. Osmanabad.

3. The Chief Engineer,
Regional Irrigation Office,
Sinchan Bhavan, Aurangabad,
Tq. and Dist. Aurangabad.

..Petitioners

Versus

Balwant Sawalaram Vaidya,
Age 45 years, Occ. ?Service,
R/o C/o Shri s.M.Vaidya,
Near Officer's Colony,
Nagar Road, Beed at post
Tq. and Dist. Beed.

..Respondent

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AGP for Petitioners : Smt. V.A.Shinde
Advocate for Respondent : Shri R.D.Kawade
h/f Shri N.R.Katneshwarkar

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CORAM : RAVINDRA V. GHUGE, J.

Dated: July 24, 2015

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ORAL JUDGMENT :-

1. This matter was admitted on 12.3.2008.

2. The ex-parte judgment dated 15.2.1995, delivered in Complaint (ULP) No. 177 of 1992 was sought to be recalled by Misc. Application No.40

of 1995 filed by the petitioner. By order dated 28.6.1996, the application for condonation of delay was rejected by the Industrial Court. Misc. Application No.11 of 2004 was then filed seeking recalling of the same judgment dated 15.2.1995. This application was also rejected by order dated 28.1.2005, by the Industrial Court.

3. The learned Division Bench of this Court in LPA No. 31 of 2001 (Coram: B.H.Marlapalle & D.S.Zoting, JJ.) has concluded that the Industrial Court / Labour Court does not have the jurisdiction to recall an exparte order after 30 days and there is no provision for condonation of delay. The learned Single Judge of this Court in the case of Dilip Vithal Jogdand Vs. Vaidyanath Urban Cooperative Bank [2007 II CLR 78], has also followed the same view.

4. In the light of the above, this petition cannot be entertained as both the impugned orders have been correctly passed. Nevertheless, the petitioner cannot be rendered remediless by being precluded from challenging the judgment dated 15.2.1995, delivered by the Industrial Court in Complaint (ULP) No.177 of 1992. In the event, such a proceeding is preferred, the time spent by the petitioner in preferring Misc. Application No. 40 of 1995 and Misc. Application No. 11 of 2004 as well as the pendency of this petition till the passing of this order, shall be a ground for seeking condonation of delay.

5. This Writ Petition is, therefore, dismissed. Rule discharged.

(RAVINDRA V. GHUGE, J.)

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akl/d