

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

**Civil Application F No. 1024 of 2015**

**in**

**First Appeal St. No. 397 of 2015**

The Dy. Chief Engineer ( Nirman), Central Railway, Ajni, Nagpur.

-Vrs.-

Sitaram Ganpat Kolhe and others.

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

Court's or Judge's orders.

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Mr. P.S. Lambat, counsel for applicant.

Ms. C.R. Najbale, counsel for respondent no.1.

Mrs. Hiwase, AGP for respondent nos.2 & 3.

**CORAM : B.P. DHARMADHIKARI AND**  
**P.N. DESHMUKH, JJ.**

**DATED : 24<sup>th</sup> AUGUST, 2015**

Heard advocate Lambat for appellant/applicant,  
 Advocate Najbale for respondent no.1 land owner and learned  
 Assistant Govt. Pleader for respondent nos. 2 & 3.

2. Applicant Deputy Chief Engineer, Central Railway  
 prayed for condonation of delay of 987 days in filing appeal  
 under Section 54 of the Land Acquisition Act. Reason given is,  
 advocate who conducted the matter in the trial court namely  
 Shri Ghatpande expired and thereafter there was no trace of  
 the matter. Advocate Najbale is opposing the prayer.  
 According to her, railway administration has some other  
 alternate arrangement and hence reason being pressed into  
 service is not sufficient. The delay is huge and it cannot be  
 accepted that during this period the concerned office or section

did not make any inquiry. The learned Assistant Govt. Pleader has no objection if delay is condoned.

3. The facts show that learned counsel Shri Ghatpande was prosecuting the Land Acquisition Case no.122/2002 and he expired. The administration thereafter could trace out the matter only in the year 2012. They also point out that some letters were issued to Shri Ghatpande requesting to furnish the status of the case.

4. This court has on 29.4.2015 while issuing notice stayed coercive recovery subject to appellant/applicant depositing the amount as awarded by the Reference Court. Advocate Lambat points out that CAO No.1421/2015 has been filed for seeking extension of time of 8 weeks to deposit that amount.

In this situation, as death of learned counsel is not disputed and there are no malafide, we condone the delay of 987 days subject to payment of costs of Rs.1,500/- by applicant/appellant to respondent no.1 within 4 weeks from today.

Civil application is allowed and disposed of. Office to register appeal.

### **CAO 1421/2015**

Heard. In the instrest of justice, time is extended as prayed for, as a last chance.

**FIRST APPEAL Stamp No. 379/2015.**

The appeal is directed to be registered by condoning delay.

**Admit.**

Learned advocate Ms. Najbile waives notice for respondent no.1.

Mrs. Hiwase, learned AGP waives notice for respondent nos.2 & 3.

**JUDGE**

**JUDGE**

Hirekhan