

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

CIVIL APPLICATION (CAF) NO.1652 OF 2014

IN

FIRST APPEAL STAMP NO.7850 OF 2014

(Executive Engineer, Lower Wardha Project Division, Wardha ..vs.. Dhananjay s/o Mahadeorao Sawant
and others)

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

Court's or Judge's orders

Shri V.G. Palshikar, Advocate for the applicant,
Shri U.K. Bisen, Advocate for the non-applicant Nos.1 to 6,
Smt. B.P. Maldhure, AGP for the non-applicant Nos.7 and 8

CORAM : Z.A. HAQ, J.

DATED : 10-02-2015

This is an application filed by the applicant praying for condonation of delay of 1033 days in filing the appeal. The explanation given for the period is in paragraph 2 of the application which reads as follows :

“2. That the judgment was passed ex parte. That in the month of July 2012 the appellant came to know about passing of the decree. That thereafter the standing counsel at Wardha applied for certified copy on 07-07-2013 and it was received on 13-07-2013. The standing counsel at Wardha gave certified copy along with his opinion to the office of appellant on 20-07-2012. The Executive Engineer opined to file appeal on 12-12-2013. Thereafter the appellant referred the matter to the Legal Advisor of V.I.D.C. The Legal Advisor opined to file appeal on 23-12-2013. Thereafter all the case papers were submitted to standing counsel. The standing

counsel asked for court fee amount in total fifteen cases from appellant on 21-01-2013. The court fee amount was paid to standing counsel in last week of March 2014. Thereafter the appeal is filed after procuring court fees.”

2. From the averments in the application, it is clear that the applicant had been dealing with the matter in a casual manner. The explanation given for the inordinate delay cannot be said to be “sufficient cause” on the basis of which the inordinate delay of 1033 days in filing the appeal can be condoned. Shri V.G. Palshikar, learned Advocate for the applicant submits that there has been some lapses on the part of the applicant in conducting the matter before the reference Court and while taking steps for filing the appeal. The learned Advocate has resorted to the spacious plea that if the appeal is dismissed, the amount would have to be paid from the State exchequer. The submission made on behalf of the applicant cannot be considered in the facts of the present case. There is no reason to believe that there may be a calculated lapse on the part of the applicant and the officers/staff attending the matter. If the State of Maharashtra is serious in the matter, the Government may take appropriate action against the defaulting officers who have been negligent while discharging their duties.

3. The civil application is dismissed. Consequently,

the first appeal is rejected with costs quantified at Rs.3,000/- to be paid by the appellant to the respondent Nos.1 to 6.

4. The amount deposited by the applicant shall be given to the non-applicant Nos.1 to 6 as per the impugned order

JUDGE

pma