

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

CIVIL APPLICATION (CAF) NO.3595 OF 2014

IN

FIRST APPEAL ST.NO.19342 OF 2014

VIDC, thr its Executive Engineer, Lower Wardha Project Division, Wardha

..vs..

Vishwas S/o Pandurangji Mude and ors

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

Court's or Judge's Order

Shri J.B. Kasat, counsel for the applicant.
Shri N.V. Fulzele, counsel for NA No.1.
AGP for NA Nos.2 to 4.

**CORAM : B.P. DHARMADHIKARI &
V.M. DESHPANDE, JJ.
DATED : DECEMBER 18, 2015.**

Heard learned counsel for the applicant Shri
J.B. Kasat, learned counsel for non-applicant No.1 Shri N.V.
Fulzele, and learned AGP for non-applicant Nos.2 to 4.

The applicant VIDC seeks condonation of delay
of 570 days in filing the first appeal under Section 54 of the
Land Acquisition Act, 1894. Submission is, as the counsel
representing it before the Reference Court did not
communicate disposal of the matter, delay has taken place.

The submission is being seriously opposed by
learned counsel for non-applicant No.1 Shri N.V. Fulzele.

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In the light of opposition and after hearing respective learned counsel this Court, on 7.10.2015, passed an order. Accordingly, additional affidavit has been filed. Along with additional affidavit, correspondence with the said counsel has been placed on record.

Learned counsel for non-applicant No.1 Shri N.V. Fulzele has pointed out that affidavit is, conspicuously, silent about fastening of responsibility for interest which the Government has to shoulder for delayed period. We keep this contention open.

The correspondence shows that office of applicant has on 2.8.2014 sent communication to counsel representing it before the Reference Court about eight matters pending with him and enquired about its progress. On very same day, grievance about belated intimation has also been made. The counsel, in turn, has sent a legal opinion dated 24.8.2014 which mentions the judgment impugned before this Court. That judgment is dated 3.12.2012. He has opined that the appeal should be filed.

The application filed before this Court, thereafter, points out developments after 24.8.2014.

The correspondence with counsel does not show that the applicants are acting diligently in the matter. The applicants are required to shell out public money if the reference is answered against them. Hence, after handing over the matters to counsel, they have to maintain diaries in which progress thereof and each date scheduled before the Court is recorded. We are sure that one of its officers must be attending the Court and must have also noted the progress. However, action against the Officers is entirely different issue. The applicant VIDC is a legal person. We, therefore, in this situation, condone delay, but subject to payment of costs of Rs.10,000/- by the applicant VIDC to non-applicant No.1/respondent within a period of four weeks. If costs is so paid, delay shall stand condoned. The Registry shall, in that event, register the first appeal. The application is disposed of.

With consent of parties, Civil Application (CAF) No.3596 of 2014 is taken up for hearing. The applicant seeks stay of coercive recovery. We find that the Land Acquisition Officer has awarded compensation for land and also for orange trees and the Reference Court has adopted income capitalization method and awarded compensation only for orange trees.

In this situation, by *ad interim* order, we direct the applicant to deposit the entire amount as awarded by the Reference Court with the Registry of this Court within a period of eight weeks from today. Request of the non-applicants for its withdrawal or then for modification shall be considered thereafter. Liberty to the non-applicants to file their replies, if any, opposing prayer for grant of stay.

JUDGE

JUDGE

!! BRW !!

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