

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

Civil Application (CAF) No.2198 of 2014

In

First Appeal Stamp No.3239 of 2014

(M.I.D.C., office at Mumbai, through its Chief Executive Officer v. Sk.
Ramzan Sk. Rustom and others)

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

Shri D.S. Agnihotri, Advocate, holding for Shri M.M. Agnihotri,
Advocate for Applicant/Appellant.

Shri V.S. Giramkar, Advocate for Respondent No.1.

Shri M.A. Kadu, AGP for Respondent Nos.2 and 3.

Coram : R.K. Deshpande, J.

Date : 14th March, 2016

Civil Application (CAF) No.2198 of 2014 :

There is a delay of 92 days caused in filing an appeal under Section 54 of the Land Acquisition Act, 1894 challenging the judgment and order passed by the Reference Court.

On 11-3-2015, this Court issued the notice to the respondents.

Shri V.S. Giramkar, the learned counsel, appears for the respondent No.1; and Shri M.A. Kadu, the learned AGP, appears for the respondent Nos.2 and 3.

There is no reply filed opposing the application for condonation of delay, but the learned counsel for the respondent

No.1 has invited my attention to the decision of the Apex Court in the case of State of U.P. Thr. Exe. Engineer and Anr. v. Amar Nath Yada, reported in 2014 SC (Supp) 1917. The Apex Court dismissed the application for condonation of 481 days caused in filing the special leave petition. It has been held that the application attributing the delay to the moving of file from one Department/Officer to the other can hardly constitute the sufficient cause for condoning the abnormal delay.

The judgment and order in question was delivered on 1-8-2013. The application for certified copy was filed on 20-9-2013 and it was forwarded to the counsel for preparing an appeal on 25-10-2013. After getting opinion on 5-11-2013, the papers were forwarded to the counsel and the time was consumed in obtaining the documents. In this process, the delay of 92 days is caused. The factual aspects have not been disputed.

In the absence of lack of bona fides and accrual of rights in favour of the respondents, I do not find any reason to refuse to condone the delay. I find that a sufficient cause is made out for condonation of delay.

Hence, the civil application is allowed. The delay caused is condoned.

The civil application is disposed of.

First Appeal Stamp No.3239 of 2014 :

Heard the learned counsels appearing for the parties on

merits of the matter.

Admit.

Respective counsels waive service of notice.

Call for R & P.

Civil Application (CAF) No.2199 of 2014 :

There shall be interim stay in terms of prayer clause (a) of this civil application, which shall operate pending the decision of the appeal.

The appellant to deposit the entire decretal amount in this Court within a period of twelve weeks from today; failing which this civil application for stay shall stand dismissed without reference to the Court.

The civil application is disposed of.

Judge.

Lanjewar