

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

CIVIL APPLICATION (CAO) NO.791 F 2016

AND

MISC. CIVIL APPLICATION STAMP NO.8605 OF 2016 (REVIEW)

IN

CIVIL APPLICATION (CAF) NO.1234 OF 2015

IN

FIRST APPEAL STAMP NO.3611 OF 2015

Sau. Latabai Narendra Bhagat

..vs..

State of Maharashtra, through Collector, Yavatmal and ors

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

Court's or Judge's Order

Shri Anand Parchure, Counsel for the Applicant.

**Shri N.R. Patil, Assistant Government Pleader for the Non-
applicants/State.**

**CORAM : B.P. DHARMADHIKARI &
S.B. SHUKRE, JJ.**

DATED : JULY 15, 2016.

**Heard learned counsel Shri Anand Parchure
for the applicant and learned Assistant Government
Pleader Shri N.R. Patil for the non-applicants/State.**

**Miscellaneous Civil Application Stamp
No.8605 of 2016 is filed for seeking review of order
dated 5.10.2015 passed on Civil Application (CAF)
No.1234 of 2015 condoning delay of 229 days in filing
First Appeal Stamp No.3611 of 2015. After condoning
delay, that appeal has now been registered as First
Appeal No.1084 of 2015. As there is delay of about 163
days in moving prayer for review, Civil Application**

.....2/-

(CAO) No.791 of 2016 has been taken out for its condonation.

Only the reason pressed into service for condonation is as contained in paragraph No.6 of the civil application. It is mentioned that the applicant is a senior citizen and has belatedly understood adverse impact of order condoning delay passed on 5.10.2015. The application has been presented on 15.4.2016. The relevant dates, like date on which order dated 5.10.2015 was communicated to her, how she understood adverse effect thereof or then what would be the adverse effect, are the facts not disclosed.

One of the contentions of learned counsel Shri Anand Parchure for the applicant was that this order condoning delay is being cited as a precedent in other matters. The delay cannot be condoned mechanically because it is condoned in one matter. Necessary facts must be looked into and it is always open to the landowners to point out distinguishing features in their matters whenever such orders are cited in precedent.

After hearing learned counsel Shri Anand Parchure for the applicant and learned Assistant Government Pleader Shri N.R. Patil for the non-applicants/State, we find that order dated 23.3.2015 passed on Civil Application (CAF) Nos.59 and 261 of

2015 refusing to condone delay, in identical challenge, has weighed with applicant in seeking review. The date, on which this order was brought to her notice, is also not on record.

In this situation, we find that delay of 163 days has itself not been properly explained. As such, prayer in Civil Application (CAO) No.791 of 2016 cannot be allowed.

Even on merits of Miscellaneous Civil Application Stamp No.8605 of 2016 it can be said that the finding in order dated 5.10.2015 that the concerned officer though busy in election duty, took some steps to file the first appeal, are not shown to be erroneous and perverse. While condoning delay, this Court has directed the State Government to pay the costs of Rs.3,000/- within a period of eight weeks. Accordingly, costs have been received by the applicant.

In this situation, taking overall view of the matter, we find that Civil Application (CAO) No.791 of 2016 as also Miscellaneous Civil Application Stamp No.8605 of 2016 need to be dismissed. Accordingly, same are rejected and disposed of. No costs.

JUDGE

JUDGE

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