

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

CIVIL APPLICATION (CAO) NO.1834 OF 2015

IN

MISC. CIVIL APPLICATION ST. NO.15418 OF 2015 (REVIEW)

IN

CIVIL APPLICATION (CAF) NO.59 OF 2015

IN

FIRST APPEAL ST.NO.21169 OF 2014

The State of Maharashtra, through the Collector, Yavatmal and ors

..vs..

Nikhil S/o Narendra Bhagat

AND

CIVIL APPLICATION (CAO) NO.1836 OF 2015

IN

MISC. CIVIL APPLICATION ST. NO.15414 OF 2015 (REVIEW)

IN

CIVIL APPLICATION (CAF) NO.261 OF 2015

IN

FIRST APPEAL ST.NO.21164 OF 2014

The State of Maharashtra, represented by the Collector, Yavatmal and another

...vs..

Ravindra S/o Sitaram Deulkar and another

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

Court's or Judge's Order

CAO No.1834/15

Shri N.R. Patil, Assistant Government Pleader for Applicant Nos.1 & 2.

Shri S.S. Godbole, Adv. H/f Shri S.G. Jagtap, Counsel for Applicant No.3.

Shri Anand Parchure, Counsel for the Non-applicant/Respondent.

CAO No.1836/15

Shri N.R. Patil, Assistant Government Pleader for the Applicants.

Shri Anand Parchure, Counsel for Non-applicant No.1/Resp.

Shri S.S. Godbole, Adv. H/f Shri S.G. Jagtap, Counsel for Non-applicant
No.2/Resp.

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

DATED : JULY 15, 2016.

Heard learned counsel for the parties.

These two civil applications are filed by the State Government under Section 5 of the Limitation Act for condoning delay of 107 days in filing Miscellaneous Civil Application Stamp Nos.15418 of 2015 and 15414 of 2015. By that miscellaneous civil applications, review of order dated 23.3.2015 refusing to condone delay of 171 days in filing first appeals under Section 54 of the Land Acquisition Act, 1894 has been sought. By the said order, we have rejected Civil Application (CAF) No.59 of 2015 in First Appeal Stamp No.21169 of 2014 and Civil Application (CAF) No.261 of 2015 in First Appeal Stamp No.21164 of 2014 preferred for condoning delay of 171 days in filing appeals under Section 54 of the Land Acquisition Act, 1894.

Initially, applications under Section 5 filed in review proceedings, there were certain blanks and hence, on 13.10.2015, we permitted those blanks to be filled in subject to payment of costs of Rs.1,000/- by the applicants. Accordingly, those costs have been paid.

On 22.4.2016, we have passed following order in both these matters, thus:

“Smt. Hiwase, learned Assistant Government Pleader for applicants, is strongly relying upon order dated 5/10/2015 passed on C.A.F. No.1234/2015 in First Appeal St. No.3611/2015 condoning delay.

Adv. Parchure for respondent No.1

apart from opposing prayer for condonation of delay on merits in the present matters, points out that land owner, who was respondent in CAF No.1234/2015, has filed an application seeking review of order dated 5/10/2015.

After hearing respective Counsel, we find that review application presented in CAF No.1234/2015 needs to be considered. Hence, we adjourn these matters to 17/6/2016.

Adv. Parchure submits that in the meanwhile, his Office will get review application in CAF No.1234/2015 circulated.”

That is how these matters were then placed and heard today along with Civil Application (CAO) No.791 of 2015 disposed of today.

To explain delay of 107 days, affidavit has been filed by one Manohar Anandrao Kadu, the Sub Divisional Officer and the Land Acquisition Officer, Darwaha. He has mentioned that the said order was received by the department on 29.4.2015 and on account of water scarcity work, he was occupied in meetings of the concerned committee conducted between 8.5.2015 to 6.7.2015. We find that as per applications, office of the Government Pleader sent a letter on 31.3.2015 and informed order dated 23.3.2015

to the department. The department has claimed it is received about 29 days thereafter.

Insofar as claim of the meetings, conducted to attend to water scarcity, is concerned, the photocopy of first page of attendance register of the meetings has been annexed with the affidavit. The meetings are conducted on 8.5.2015, 11.5.2015, 25.5.2015 (two meetings), 1.6.2015, 5.6.2015, 8.6.2015, 15.6.2015, 17.6.2015, 22.6.2015, and 6.7.2015. It is, therefore, obvious that the meetings were not being held everyday. The applications have been filed on 5.8.2015. As we have already noted *supra* to fill in the blanks therein, on 13.10.2015 we had imposed costs of Rs.1,000/-.

The non-applicants-landowners, in reply-affidavit from paragraph No.5 onwards, given necessary details about so-called scarcity workings and meetings. It is urged that all 34 members of the committee could not and did not look after the said blanks.

While rejecting the prayer for condonation of delay in filing the first appeal on 23.3.2015, what weighed with us is delay was explained only till 16.8.2014 while appeals were actually filed on 28.10.2014 i.e. after more than two months and eleven days. Thus, delay of two months and eleven days was not at all explained. In Miscellaneous Civil Application Stamp Nos.15418 and 15414 of 2015, effort has been

made to explain that delay. It is pointed out that as per Gazette Notification dated 10.12.2013, the Land Acquisition Officer was held up in preparing and updating voters list on large scale. It was not practically possible for him to attend the office of the Government Pleader in the months of July and August, 2014. In next paragraph, it has been mentioned that after declaration of result, he submitted entire information to the Election Commission of Nagpur which took another eight to ten days and immediately after that period, he authorized Shri V.R. Harne, Naib Tahsildar, Darwha to swear affidavit. Thus, we find substance in the contention of the non-applicant that Shri V.R. Harne could have been authorized even before the said period to enable him to file affidavit.

It is also interesting to note that in order dated 23.3.2015, in paragraph No.7, we have looked into additional affidavit. That additional affidavit is filed by said Shri V.R. Harne, Naib Tahsildar, Darwha only on 18.2.2015. Thus, Shri V.R. Harne was aware and being authorized in the matter. The officer who allegedly did not pay attention, then did not come forward and filed any affidavit. The State has also not expressed any inclination to enquire into delay and to fasten responsibility.

We, therefore, find no just and sufficient

reason to condone delay of 107 days. Accordingly, Civil Application (CAO) Nos.1834 and 1836 of 2015 are rejected. Similarly, for the reasons recorded above, we do not find any merit in proposed review application also.

During arguments advanced by learned Assistant Government Pleader Shri N.R. Patil and learned counsel Shri Anand Parchure, we find that against the same award different appeals have been filed before this Court. Some appeals have been looked into by learned Single Judge while some have been looked into by the Division Bench of this Court. The applications for condonation of delay in all these matters may not have been drafted by same counsel. With the result, material presented to the Court is not the same in each case. Even the relevant developments which may have been pointed out, in one application, could have escaped attention while drafting other applications. While arguing the matter, therefore, the same error could have taken place. Hence, different Benches of this Court have passed varying orders in the matters.

In this situation, we find that it will be in the interest of justice that all such applications for condonation of delay, arising out of the same land acquisition proceedings or at least same reference

under Section 18 of the Land Acquisition Act, 1894, are drafted together and presented for orders also together.

Hence, we direct the Registry of this Court to communicate these observations to the office of the respective Government Pleaders of this Court and also to all the Land Acquisition Officers functioning in the State of Maharashtra through respective Collectors.

Accordingly, we dismiss both the applications. However, there shall be no order as to costs.

JUDGE

JUDGE

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