

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

CIVIL APPLICATION NO.1539 OF 2017
IN FIRST APPEAL ST. NO.2632 OF 2017

(Executive Engineer, Bembla Project Division, vs. Sakhubai Vithalrao Aglave and others)

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

Shri P.B. Patil, Advocate for applicant.

Shri A.B. Nakshane, Advocate for respondent nos.1 to 5.

Ms. R. Kalia, Assistant Government Pleader for
respondent nos.6 and 7.

CORAM : P.N. DESHMUKH, J.

DATED : OCTOBER 10, 2017

Heard learned Counsel for the parties.

This application is filed by applicant for
condonation of 183 days' delay caused in preferring
appeal against judgment and award dated 21/10/2015
passed by learned Joint Civil Judge, Senior Division,
Yavatmal in L.A.C. No.336/2007.

For the grounds mentioned in paras 2 and 3
of the application and since it is found that there is no
intentional delay caused, the delay is condoned. The
application is allowed.

FIRST APPEAL ST. NO. 2632 OF 2017

Heard learned Counsel for the parties.

Admit.

Shri Nakshane, learned Counsel waives

notice for respondent nos.1 to 5. Ms. Kalia, learned Assistant Government Pleader waives notice for respondent nos.6 and 7.

Call R & P.

CIVIL APPLICATION NO. 1540 OF 2017

Heard learned Counsel for the parties.

This application is filed by applicant for grant of stay to execution of judgment and award dated 21/10/2015 passed by learned Joint Civil Judge, Senior Division, Yavatmal in L.A.C. No.336/2007.

Shri Patil, learned Counsel for applicant, submits that in compliance of order dated 3/4/2017 passed by this Court on the basis of the statement made by learned Counsel for applicant, entire decretal amount is deposited.

The Office note substantiates the fact of deposit of amount of Rs.32,23,167/-.

In view of aforesaid facts, there shall be stay to impugned judgment and award dated 21/10/2015 passed by learned Joint Civil Judge, Senior Division, Yavatmal in L.A.C. No.336/2007.

CIVIL APPLICATION NO.3791 OF 2017

Heard learned Counsel for the parties.

By this application, applicants/respondent nos.1 to 5 have prayed for withdrawal of amount of Rs.32,23,167/- deposited by appellant towards amount

of compensation as per judgment and award dated 21/10/2015 passed by learned Joint Civil Judge, Senior Division, Yavatmal in L.A.C. No.336/2007.

Having considered the grounds put forth in the application, there appears no ground for allowing applicants/respondent nos.1 to 5 to withdraw entire amount as aforesaid. In that view of the matter, respondent nos.1 to 5 are allowed to withdraw 50% of the total amount of Rs.32,23,167/- at this stage with liberty to apply afresh by making out a case for withdrawal of further 25% of total amount.

In the circumstances, applicants/respondent nos.1 to 5 be allowed to withdraw 50% of the total amount of Rs.32,23,167/- on furnishing usual undertaking before Registrar (Judicial) of this Court. Remaining amount be deposited in fixed deposit in any nationalised Bank initially for a period of 24 months.

The application is thus partly allowed.

JUDGE

khj