

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

C.A.F. No. 3674/2016 IN FIRST APPEAL ST. No. 4442/2016

BAPURAO KRUSHNARAO NAPTE -vs. MAHARASHTRA STATE, THROUGH COLLECTOR,
YAVATMAL, DISTT. YAVATMAL AND OTHERS.

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

Court's or Judge's Orders.

Shri V.N. Patre, counsel for applicant.
Ms. S. Haider, AGP for respondent nos.1 and 2.
Shri S.G. Jagtap, counsel for respondent no.3.

CORAM: DR. SMT. SHALINI PHANSALKAR-JOSHI, J.

DATE : JUNE 22, 2017.

Issue notice to respondents.

Learned AGP waives service of notice on
respondent nos.1 and 2.

Heard learned counsel for applicant, learned
AGP for respondent nos.1 and 2 and learned counsel for
respondent no.3.

The delay in preferring the appeal is of
substantial period of 686 days i.e. about 2 years. Award in
the case was passed by the reference court on 08/01/2014.

As per learned counsel for applicant, the amount
of compensation was paid to him only on 09/10/2015,

thereafter he applied for certified copy of the impugned judgment on 19/11/2015 and he received the same on 26/11/2015, however appeal is filed on 18/01/2016 and today on 22/06/2017 it is being circulated.

Hence, submission advanced by learned counsel for applicant that the delay caused in preferring the appeal was beyond his control, cannot be accepted. If he has received the amount of compensation with interest that has accrued on the amount awarded by the Tribunal on 09/10/2015 and if he has received the certified copy of the impugned judgment on 26/11/2015 itself, absolutely no satisfactory explanation is offered for the delay caused in the matter.

In view thereof, the delay can be condoned only subject to applicant waiving his right of getting the interest on the said amount from the date of 09/10/2015 till the date.

Accordingly the delay is condoned subject to this condition of applicant being not entitled to get the interest on the enhanced amount of compensation from 09/10/2015 till the date.

Application is allowed and disposed of accordingly.

FIRST APPEAL ST. No. 4442/2016.

Heard learned counsel for appellant, learned AGP for respondent nos.1 and 2 and learned counsel for respondent no.3.

ADMIT.

Call for R and P.

Appellant to file private paper book within 6 months after receipt of R and P.

Notice to respondent nos.1 and 2 is waived by learned AGP, whereas notice to respondent no.3 is waived by learned counsel Shri S.G. Jagtap.

JUDGE