

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

C.A.O. NO.1219/2017 IN FIRST APPEAL NO.683/2012

(VIDARBHA IRRIGATION DEVELOPMENT CORPORATION **VERSUS** ASHOK KASHINATH TIMANDE &
OTHERS)

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

Court's or Judge's orders

Shri J.B. Kasat, Counsel for the appellant.
Shri A. Deshpande, Counsel for the respondent No.1.
Shri B.M. Lonare, A.G.P. for the respondent Nos.2 & 3.

CORAM : S.B. SHUKRE, J.

DATE : NOVEMBER 09, 2017.

Heard.

This application is strongly opposed by learned counsel for the appellant Shri Kasat contending that the paper book was filed on 14.12.2016 and therefore, as per the order of this Court passed in Civil Application No.1218/2017 in Cross Objection (Stamp) No.14274/2017 in First Appeal No. 818/2013 on 13th October, 2017, the limitation period of one month shall start running from the date of filing of the paper book and such date could be reasonably considered to be the date when the parties have notice of fixing of the appeal for final disposal. He further submits that the appeal was admitted on 12th September, 2012 and notice was issued to the respondent/claimant, which was received by the respondent some time thereafter, but in the year 2012 itself. So, he also submits that appearance of the

respondent/claimant in this case after admission of the appeal could also be taken as the receipt of notice by the respondent of the final disposal and so, according to him, there is great delay in filing of the cross-objection. He submits that this delay has not been properly explained.

Learned counsel for the cross-objector/claimant Shri Deshpande submits that registry officials have wrongly calculated the delay and as a matter of record, there is no delay occurred in filing of the cross-objection.

As per Practice Note 20, when the printing of paper book is dispensed with and appellant is directed to supply the paper book within time stipulated by the Court and in terms of the directions given by the Court, the private paper book is also filed, it could be reasonably considered that all the parties would get notice of fixing of the appeal for final disposal on the date on which the paper book is filed. So, period of one month would be required to be reckoned from the date on which the paper book is filed.

In the present case, the paper book was not filed within stipulated period of twelve months. The order dated 4th December, 2015 shows that if the paper book is not filed within twelve months, it would have to be filed after or along with payment of cost of Rs.500/- to the High Court Legal Services Sub Committee, Nagpur. In the present case, the paper book is filed on 14.12.2016, but it was not accompanied by payment

of cost of Rs.500/-. If that was the case, the registry ought not to have accepted or taken on record the paper book and if it has been done, the act would be viewed as not filing the paper book in terms of the order passed by this Court.

The order dated 8th June, 2017 also confirms the view so taken by me. It states that as the paper book has been filed already, the costs as imposed by this Court are dispensed with and then, by this very order, the appeal is directed to be fixed for final hearing.

It is obvious from the order passed by this Court on 8th June, 2017 that the act of filing of the private paper book was completed only on 8th June, 2017 when the payment of cost was dispensed with and as a clarification further, an order was specifically passed directing the listing of the appeal for final hearing. So, it is the date of 8th June, 2017, which would have to be taken as the date from which onwards this appeal came to be listed for final hearing and therefore, the cross-objection, if any, would be required to be filed within one month from the date of 8th June, 2017.

In the present case, the cross-objection has been filed on 6th July, 2017. It is clearly within limitation. Therefore, this application is redundant.

The cross-objection be registered.

Application stands disposed of accordingly.

CROSS OBJECTION ST. NO. 14277/2017

Admit.

Considering the issues involved in the cross-objection, one of which relates to the need for remanding the matter to the reference court, I am of the view that this appeal would have to be expeditiously heard finally and accordingly, it be listed for final hearing in the first week of December, 2017.

JUDGE

SHRIPAD