

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
CIVIL APPLICATION (O) NO. 1929/2016
&
MISC.CIVIL APPLICATION (ST)NO.21612/2016
IN
FIRST APPEAL NO. 62/1992

(Shri Gambhirmal Chaganmal Singhvi (Dead) Through LRs: and others vs. The State of
 maharashtra and others)

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

Court's or Judge's order

.....
 Shri Gunjan Kothari, Adv. for applicants/ appellants
 Shri P.S.Tembhre, A.G.P for respondents

CORAM : B.P. DHARMADHIKARI, J.
DATED : 3rd February, 2017.

Heard.

2. Learned A.G.P is strongly opposing condonation of delay. He points out that delay is huge and there is no explanation whatsoever for it. He further submits that even on merits only by pointing out other view taken by this Court while deciding a different First Appeal, review is sought.

3. Learned counsel appearing for applicants states that they were not aware of final adjudication of First Appeal as their counsel did not inform. Said counsel also did not appear at the time of final hearing and effort to obtain information were made only in 2016. After getting information, review has been filed as for other land situated in the same village, this Court has vide judgment delivered on 3rd April, 2009 granted substantially more rate.

4. To point out approach to be adopted while condoning delay in such matters, applicants placed reliance upon judgment of Hon'ble Apex Court reported at MANU/SC/0778/2014 (Dhiraj Singh (D) Tr) vs. Haryana State. It is further submitted that a similar approach has been adopted by learned single Judge while condoning delay in Civil Application No.1717/2015 and First Appeal (St) No. 5286/2015 on 30th August, 2016.

5. The application for condonation of delay is supported by an affidavit of one Rajendra (i.e. applicant no.1). He has stated that First Appeal No.62/1992 was filed through Advocate V.N. Patil and said Advocate did not appear at the time of final hearing. Advocate D.G.Patil appeared when he was not authorised. Advocate Patil never informed applicants about final hearing. The applicants waited for a long period and also tried to contact Advocate V.N.Patil, but he avoided to give details. The applicants therefore started search and on internet, some time in September 2016, came to know that Appeal was listed and disposed of on 2.2.2009. Then they point out period taken in obtaining certified copy. Thereafter, in next paragraph gravity of the matter has been explained.

6. Thus, except for stating Advocate V.N.Patil did not cooperate, no other details are furnished, such as, when Adv.V.N. Patil was contacted, who conducted him and what steps were taken when Adv. V.N.Patil was not giving proper replies, is not explained. We, therefore, find substance in contention of learned AGP that applicants did not pay any attention to the matter after 1992, till 2016.

7. Moreover, learned AGP has pointed out that along with First Appeal No.62/1992 connected First Appeals i.e. 342/92, 344/1992, 648/1992, 484/1993, 501/1993, 18/1995, 19/1995, 104/1995 and 112/1995 were also heard and disposed of.

8. Perusal of judgment dated 2nd February, 2009 delivered in above Appeals reveals that Advocate D.G.Patil has appeared in eight First Appeals in the Group. He was the counsel working with Advocate V.N.Patil. Apart from him, other learned Advocates regularly practising on land acquisition side, have also assisted this Court while arguing their Appeals on 2nd February, 2009.

9. Perusal of judgment dated 2nd February, 2009 reveals that there the learned AGP pointed out how judgment delivered by Division Bench on 21.10.1992 in First Appeal No. 32/1990 was not applicable. The judgment delivered on 15.01.2009 in First Appeal No.2/1994 was also relied upon.

10. In the background of these arguments, this Court has found that lands were not perennially irrigated and hence controversy was covered by its judgment dated 15.01.2009. Thus, that judgment has been applied after considering rival arguments and with due opportunity to appellants.

11. The applicants pointed out judgment delivered by me on 3rd April, 2009 in First Appeal No.85/ 1995 for seeking review. First Appeal No.89/1995 did not form part of group in which I delivered judgment on 2nd February, 2009. In judgment delivered on 3rd April 2009, this court has found that non-agricultural potentiality was established and the finding of the trial Court

about such potentiality, are also looked into in paragraph no.3. In paragraph no.4 sale instances have been considered. It is in this background, the amount of compensation was enhanced.

12. In this situation, judgment delivered on 3rd April,2009 appears to be in relation to different type of lands and, therefore, cannot form basis for seeking view of judgment dated 2nd February, 2009.

13. Thus, even on merits, I find that no case is made out for invoking review jurisdiction.

14. In view of this finding, neither delay can be condoned nor review can be allowed. Hence, both the proceedings are rejected.

JUDGE

sahare