

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

C.A.F. No. 2758/2016 IN FIRST APPEAL ST. NO. 23823/2015

V.I.D.C. THROUGH ITS EXE. ENGINEER, BEMBLA PROJECT DIVISION, DISTT. YAVATMAL -vs-
VIJAYKUMAR NEMICHAND KOTTECHA 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 J.B. Kasat, counsel for appellant.
Mrs. P.P. Chobe, counsel for respondent no.1.
Ms. S. Haider, AGP for respondent nos.2 and 3.

CORAM : DR S.S.PHANSALKAR-JOSHI, J.

DATE : JUNE 09, 2017

Heard learned counsel for the applicant. As the applicant is acquiring body and the presence of applicant is necessary for deciding the dispute involved between the parties, the application is allowed and the applicant is granted leave to file the appeal.

C.A.F. No. 2888/2016.

Heard learned counsel for the applicant, learned counsel for the respondent no.1 and learned Assistant Government Pleader for the respondent nos.2 and 3.

For the reasons stated in para nos.2, 3 and 4, as the sufficient cause is made out, the delay is of substantial period of 1033 days and as the learned counsel for the respondent no.1 has no objection to

condone the same, the application is allowed with no order as to costs.

The application is disposed of accordingly.

FIRST APPEAL ST. No. 23823/2015.

Heard.

ADMIT.

Call for Record and Proceedings.

On the receipt of Record and Proceedings, the appellant to file private paper book within 6 months.

C.A.F. No. 2889/2016.

It is submitted that as per the order passed by this court, some amount of compensation is deposited within the stipulated period. In view thereof, order of ad-interim stay granted earlier is continued till final decision of the appeal.

The application is accordingly disposed of.

C.A.F. No. 1922/2017.

This is an application filed by the original respondent no.1 seeking withdrawal of the compensation amount deposited by the appellant in the court.

Submission of the learned counsel for the appellant is that if the respondent no.1 is to be permitted

to withdraw the entire amount of compensation, then it should be subject to furnishing solvent surety for 50% of the amount and also by filing mutual undertaking.

The learned counsel for the respondent no.1, however, submitted that the amount is required for the education of the children and for discharging family liabilities and it may not be possible for the respondent no.1 to furnish the solvent surety.

Considering that amount of Rs.12,49,890/- is deposited towards compensation amount and if the said amount is towards enhancement in compensation granted by the reference court, and there is a difficulty for the appellant to recover the said amount in case of decision going against the respondent no.1. Accordingly the respondent no.1 is permitted to withdraw the entire amount of compensation subject to furnishing solvent surety in respect of 70% of the amount and also subject to furnishing usual undertaking in respect of the amount.

Application is disposed of accordingly.

JUDGE