

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

CIVIL APPLICATION (CAF) NO.2760 OF 2017

AND

FIRST APPEAL ST. NO.3470 OF 2017

(THE EXECUTIVE ENGINEER, IRRIGATION PROJECT YAVATMAL...VS.. AVDOOT MAHARAJ
MANDIR & OTH)

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

Court's or Judge's orders

Shri P.B.Patil, Advocate for Applicant.
Ms Geeta Tiwari, A.G.P. for Respondent Nos. 2 & 3.

CORAM : Z.A.HAQ, J.

DATED : MARCH 06, 2018.

CIVIL APPLN.(CAF) NO. 2760/2017.

The applicant/appellant prays that delay of 770 days in filing the appeal be condoned. The explanation is given in paragraph No.4 (i), (ii), (iii) and (iv) at page 3 of the application, which reads as follows:

4) Apart from aforesaid position, the other facts to be considered are as under:

(i) For the purpose of Bembla Irrigation project 10350 Hector land was acquired, due to which 24 villages were required to be rehabilitated and under section 18 about 5,000 reference cases were filed by the claimants.

(ii) It is submitted that, from 2009 to 2011 near about 2100 cases were decided by the Reference Court. At the relevant time there was no separate legal cell in the office of Bembla Project due to which there was lack of proper and effective co-ordination between the office and panel counsel of V.I.D.C. handling the matters before the Reference Court.

(iii) It is submitted that, necessary permission for appointment of one Legal Coordinator holding law degree and having experience of legal practice and two Assistance was granted in year 2015 and necessary appointments on contract basis were done and legal cell was constituted in 2015. After constitution of legal cell, proper coordination was done and the appeals are filed expeditiously.

(iv) It is further submitted that, apart from the regular work of construction of Bembla Project and court matters, the office of Bembla Project was entrusted the work of rehabilitation of 24 villages. The work of rehabilitation and providing of civic amenities was also required to give priority as it relates to residence facility with necessary amenities.”

In my view, the explanation given on behalf of the applicant/appellant cannot be accepted to condone the inordinate delay of 770 days. I find that the applicant/appellant is not diligent in prosecuting the matter. This is clear from the fact that though this Court granted an interim order on 10th July, 2017 and stayed the execution of the impugned award on condition that the decretal amount shall be deposited by the applicant/appellant within 12 weeks, neither the amount is deposited till today nor any application is moved seeking extension of time to deposit the amount. The casual and callous approach of the applicant/ appellant disentitles it from exercise of discretion in its favour.

The application is **dismissed**.

FIRST APPEAL ST.NO.3470/2017.

In view of dismissal of Civil Application No.2760 of 2017 praying for condonation of delay, the first appeal is **rejected.**

CIVIL APPLN.(CAF) NO. 2761/2017

In view of rejection of the appeal, the application praying for grant of stay does not survive, hence, it is **disposed.**

JUDGE

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