

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

CIVIL APPLICATION (F) NO.2988/2018
IN FIRST APPEAL ST. NO.9688/2016

Executive Engineer, Bembla Project, Yavatmal .vs. Ruprao Udebhan Hajare
(Dead) and Ors.

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

Court's or Judge's orders.

Mr. P. B. Patil, Advocate for applicant.
Mr. Girdekar, Advocate for non applicant nos.1a to 1f.
Mr. M. A. Kadu, A.G.P. for non applicant nos. 2 and 3.

CORAM : V.M. DESHPANDE, J.
DATED : OCTOBER 9, 2018

Heard Mr.Patil, learned counsel for applicant.

This is an application for condonation of delay in filing the appeal challenging the judgment and decree passed by learned 2nd Jt. Civil Judge Senior Division, Yavatmal in Land Acquisition Case No.747/2006. There is a delay of 154 days. Notices on this application were issued. Pursuant to the notices Mr.Girdekar, Advocate appears for non applicant nos. 1-a to 1-f and Mr. Kadu, learned A.G.P. appears for non applicant nos. 2 and 3. Both the learned counsel submit that they have no objection for condonation of delay. Consequently, the application is allowed. Delay is condoned. Office is directed to register the appeal.

First Appeal Stamp No.9686/2016

Heard.

Admit. Call for the record and proceedings.

Mr. Girdekar, Advocate waives notice for respondent nos. 1-a to 1-f. Mr. Kadu, A.G.P. waives notice for respondent nos. 2 and 3.

Civil Application No.1693/2018

This is an application filed on behalf of respondent nos. 1-a to 1-f for withdrawal of the amount deposited by the appellant.

Pursuant to the order passed by this Court, the appellant has deposited Rs.21,01,426/-.

The acquisition was in respect of plot along with constructed area. The plot is situated at village Pahur, Dist. Yavatmal. During the course submissions, learned counsel for the claimant submits that population of the said village is about 2000. The Land Acquisition Officer has granted compensation for the open plot at the rate of Rs.80/- per square meter whereas for constructed portion, compensation of Rs.619/- per square meter was granted.

The claimants, being dissatisfied, filed reference under Section 18 of the Land Acquisition Act. The learned reference Court, partly allowed the reference and granted compensation at the rate of

Rs.900/- per square meter towards price of the open land whereas for constructed portion, Rs.1500/- is granted towards compensation for constructed area.

Looking to the judgment passed by the learned Judge of the trial Court which is impugned in this appeal, I pass the following order.

ORDER

- (i) The application is partly allowed.
- (ii) Respondent nos. 1-a to 1-f will be entitled to withdraw 50% of the amount deposited by the appellant on they furnishing undertaking before this Court that in case the appeal is allowed then in that event within a period 1 ½ years from the judgment, they will refund the amount along with interest that will be determined by this Court at the time of disposal of the appeal.

The application is disposed of.

Civil Application No.837/2018

This is an application under Order 41 Rule 5 of the Code of Civil Procedure for grant of stay.

Heard Mr. Patil, learned counsel for the applicant, Mr.Girdekar, learned counsel for non applicant nos. 1a to 1f and Mr. Kadu, learned A.G.P. for non applicant nos. 2 and 3.

On 23.06.2017, on this application, this Court passed order that if the amount is deposited within a

period of 8 weeks from today, there shall be stay to the effect and operation of the judgment and decree impugned. Pursuant to the said order, entire amount is already deposited.

Today, Civil Application No.1693/2018 is partly allowed and the respondent nos. 1-a to 1-f are permitted to withdraw 50% of the amount. In that view of the matter, I pass the following order.

ORDER

- (i) The application is allowed.
- (ii) Ad interim order granted on 23.06.2017 is made absolute. Insofar as the remaining 50% amount is concerned, Registrar (Judicial) is directed to invest remaining 50% amount with any nationalised bank, initially for a period of 3 years and shall continue to do the said exercise, as and when occasion arises, in order to save loss of interest.

The application is disposed of.

JUDGE