

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

C.A.F. NO.544/2017

IN

FIRST APPEAL STAMP NO.20716/2016

The State of Maharashtra, through the Collector, Yavatmal and another

..Vs..

Balwantrao Khushalrao Jagtap

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

Court's or Judge's orders

Shri A.M. Kadu, A.G.P. for the appellants.
Shri K.S. Narwade, Advocate for the respondent.

CORAM : Z.A. HAQ, J.

DATE : 27.2.2018.

Heard.

The appellants have filed appeal to challenge the award passed by the Reference Court. There is delay of about 407 days in filing the appeal and, therefore, this application is filed praying for condonation of delay.

The Land Acquisition Officer had granted compensation at the rate of Rs.8,30,000/- per hector. The Reference Court has enhanced the amount of compensation at the rate of Rs.363/- per Sq. Meter. The acquisition of land is for constructing court building. It is informed that court building is constructed and is put to use also, however, the respondent / claimant is still litigating to get the amount of compensation. The explanation for delay is found in paragraph Nos.3, 4, 5 and 6 of the civil application. It is stated that the

judgment is delivered by Reference Court on 18th May, 2015 (should be “2016”), the certified copy of judgment, was received by the Land Acquisition Officer on 29th June, 2015, the District Government Pleader gave intimation of passing of judgment to the Land Acquisition Officer on 7th November, 2015, the Land Acquisition Officer had sent the proposal for filing appeal to the Law and Judiciary Department, Nagpur on 16th November, 2015, the Joint Secretary of Law and Judiciary Department accorded consent for filing appeal on 16th May, 2016, then office of Government Pleader, High Court was contacted, steps were taken and appeal came to be filed.

The facts stated in the civil application show that the Land Acquisition Officer was aware about the passing of judgment and certified copy was received by the Land Acquisition Officer on 29th June, 2015. In the civil application, the appellants have conveniently avoided the date on which the application for obtaining the certified copy of judgment was filed. From the certified copy of the judgment, which is placed on record of the appeal, it can be seen that the application for obtaining the certified copy was made on 9th June, 2016 and the certified copy was delivered on 29th June, 2016.

There is no explanation why the application for obtaining certified copy was not made immediately after the judgment was delivered. It is not explained that why the District Government Pleader took about 5 months and 3 weeks to send intimation to the appellants

about delivery of judgment by the Reference Court. Again there is no explanation why the Joint Secretary, Law and Judiciary Department, Nagpur took almost 6 months to take decision regarding filing of the appeal.

This application was listed before Court on 3rd July, 2017 alongwith Civil Application No.545/2017 by which the appellants have prayed for interim order. This Court directed issuance of notice to the respondent and granted stay to the execution of impugned judgment / decree subject to deposit of entire amount within 12 weeks. The period of 12 weeks has expired in September, 2017. The appellants have neither deposited the amount nor any civil application is filed till date seeking extension of time to deposit the amount.

The facts on record show complete callousness on the part of the appellants.

In view of the above, I find that the appellants have not been vigilant in prosecuting the matter and there is no explanation for the inordinate delay on the basis of which it can be condoned.

The civil application is **dismissed**. No costs.

FIRST APPEAL STAMP NO.20716/2016

In view of rejection of Civil Application No.544/2017 praying for condonation of delay, the appeal stands **rejected**. No costs.

JUDGE