

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Civil Application No. 03788 of 2018
(In Second Appeal Stamp No. 27938 / 2017)

District : Nanded

Maharashtra State Electricity Board,
Bhokar Division, Bhokar,
Through its Executive Engineer,
R/o. Bhokar, Dist. Nanded.

.. Applicant
(Original
plaintiff)

versus

1. Mukundrao s/o. Ramlu Nemaniwar,
Age : 67 years,
Occupation : Nil,
R/o. Near S.N.M. College,
Kinwat, Dist. Nanded.

2. Rangrao s/o. Ramlu Nemaniwar,
Age : 58 years,
Occupation : Service,
R/o. S.D.O. Office, Kinwat,
Dist. Nanded.

3. Govindrao s/o. Ramlu
Nemaniwar,
Age : 54 years,
Occupation : Labour.

.. Application
dismissed as
against
non-applicant
no.03.

4. Laxmidevi w/o. Narayan
Nemaniwar,
Age : 69 years,
Occupation : Household.

Both R/o. Velmapura,
Taluka Kinwat,
District Nanded.

.. Non-applicants
(Original
defendants)

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*Mr. Dhananjay P. Deshpande, Advocate, for the
applicant.*

Non-applicants no.01 and 04 served (Absent).

*Mr. P.P. Mandlik, Advocate, holding for
Mr. A.S. Gandhi, Advocate, for respondent no.02.*

*Application dismissed as against non-applicant
no.03 as per Court's order dated 29.09.2018.*

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 09TH JANUARY 2019

ORAL ORDER :

01. Present application has been filed by the appellant - original plaintiff, who intends to file second appeal challenging the judgment and order dated 08-02-2017 passed by District Judge-2, Nanded, in Regular Civil Appeal No. 44 of 2002, dismissing the appeal and confirming the judgment and decree dated 30-01-2002 passed by Civil Judge (J.D.), Kinwat, in Regular Civil Suit No. 30 of 1997, dismissing the suit. It is stated that, there is delay of about 52 days in filing second appeal. It is contended that, substantial rights of the appellant are involved. The suit was filed for perpetual injunction in respect of land which was purchased by the plaintiff - Board in establishing 33 KV Sub-Station at Kinwat. The appellant also intends to file certain documents on record, for which separate application has been filed. The delay was

unintentional. Since it is a Board, it took time to have sanction. Therefore, on these grounds, delay is sought to be condoned.

02. Learned Advocate appearing for non-applicants no.01, 02 and 04 objected the application on the ground that no reasonable ground has been shown. Delay of each day has not been explained properly.

03. It is to be noted that the Electricity Board was required to file suit for simpliciter injunction in respect of land which is stated to be purchased by the Board for installation of 33 KV Sub-Station at Kinwat. When a public authority is involved, liberal approach is required to be taken. The non-applicants can be compensated in terms of money. Under such circumstance, delay deserves to be condoned.

04. Hence, the following order :-

(a) The application is hereby allowed.

(b) The delay caused in filing second appeal is hereby condoned subject to deposit of amount of Rs. 3,000/- [Rupees three thousand] within 15 days from the date of this order. After deposit of the said amount, it be disbursed to non-applicants no.01, 02 and 04 equally.

(c) After deposit of the amount, Second Appeal be verified, registered and thereafter be put for consideration on 08th February 2019.

(Smt. Vibha Kankanwadi)
JUDGE

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