

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

CIVIL APPLICATION (CAF) NO. 978/2020
AND
CIVIL APPLICATION (CAF) NO. 979/2020
AND
CIVIL APPLICATION (CAF) NO. 980/2020
IN
FIRST APPEAL NO. 616/2016

V.I.D.C. through its Executive Engineer, Bembla Project Division, Yavatmal,
..VS..

Trimbak S/o Ganpatrao Kawalkar and Ors.,

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

Court's or Judge's orders

Shri A. B. Patil, Advocate for the appellant.
Shri A. B. Nakshane, Advocate for respondent Nos.1 to 2.
Ms Ritu Kaliya, AGP for respondent Nos.3 and 4.

CORAM : MADHAV J. JAMDAR, J.

DATED : 13th March, 2020

In Civil Application No.978/2020, the prayer is sought to condone the delay of 550 days in bringing the legal heirs of deceased respondent No.1, who has expired on 11.05.2018 on record. It appears that by Pursis (St.) No.1813/2020 dated 28.01.2020 which has been served on the Advocate of the appellant on 04.02.2020, it was informed to the Advocate for the appellant that the respondent No.1 had expired on 11.05.2018 and as per the Will of the deceased dated 19.10.2005, the property is bequeathed in favour of Narayan Ganpat Kawalkar. It appears that thereafter,

immediately the present applications are taken out on 28.02.2020 i.e. after about 24 days. Order 23 Rule 10(A) of the CPC specifically provides that it is the duty of the pleader appearing for a party to inform the Court about the death of such party when he comes to know about the death of the party. It appears that after the Advocate of the deceased respondent No.1 informed the Court i.e. 28.02.2020 immediately within 24 days all these applications are filed. Therefore, Civil Application 978/2020 filed for condonation of delay of 550 days in bringing on record legal heirs of deceased respondent No.1 is granted in terms of prayer clause (a).

The Civil Application No.979/2020 filed for setting aside abatement of appeal against respondent No.1 is granted in terms of prayer clause (a).

The Civil Application No.980/2020 filed for bringing on record the legal heirs of respondent No.1 is granted in terms of prayer clause (a).

Amendment be carried out within a period of two weeks.

JUDGE