

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

Civil Application (O) No.591 of 2020

IN

Miscellaneous Civil Application Stamp No.6437 of 2020

IN

First Appeal No.976 of 2007

Wasudeo S/o Baladeo Jemati Vs. State of Maharashtra and Others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri S.M. Thakre, Advocate for the Applicant.
Ms. Shamsi Haider, A.G.P. for Respondent Nos.1 and 2.
Shri M.A. Kadu, Advocate for Respondent No.3.

CORAM : S.M. MODAK, J.

DATE : 6th NOVEMBER, 2020.

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2] Heard learned Advocate Shri S.M. Thakre for the applicant, learned Advocate Shri M.A. Kadu for respondent No.3 and learned A.G.P. Ms. Shamsi Haider for respondent Nos.1 and 2.

3] The applicant has filed First Appeal No.976/2007 against the order of the Reference Court passed in L.A.C. No.89/2001. Though the Reference Court has enhanced the amount of compensation for the land and for orange trees, the applicant was not satisfied about the enhanced rate for orange trees. Accordingly, the appeal was filed.

4] The applicant was directed to file a private paper book. In spite of several opportunities, it was not filed. Accordingly, the appeal came to be dismissed *vide* order dated 29th September, 2015.

5] The applicant remained silent till the year 2020. He has chosen not to make an enquiry with his learned Advocate. So also, the learned Advocate on record seems not to have pursued the matter. On getting knowledge of order for paying enhanced compensation in First Appeal No.215/2013, the applicant contacted his learned Advocate. Then the enquiry was made and it was unearthed that appeal came to be dismissed as mentioned above.

6] It is true that the presence of the parties are not required in the proceedings before the High Court. Ultimately, it remains within the domain of the learned Advocate on record and his client how to pursue the matter.

7] I am inclined to restore the appeal for the simple reason of giving an opportunity to the applicant to contest the matter on merits. But, there has to be some costs. Because the period of five years have elapsed. Hence the order:-

ORDER

- i. The application for condonation of delay is allowed.
- ii. The application for restoration of the appeal is allowed.
- iii. It will be subject to payment of costs of Rs.2,000/- to High Court Legal Services Sub-Committee.
- iv. Both civil applications are disposed of.

JUDGE