

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

CIVIL APPLICATION (CAF) NO. 1448 OF 2020
WITH
CIVIL APPLICATION (CAF) NO. 1449 OF 2020
WITH
CIVIL APPLICATION (CAF) NO. 1450 OF 2020
IN
FIRST APPEAL NO. 1146 OF 2013

Maharashtra Industrial Development Corporation, through its Chief Executive Officer

...Versus...

Tukaram Shivram Jagtap 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 Sharad Thakre, Advocate h/f Shri M.M. Agnihotri for applicant
Shri M.A. Kadu, AGP for respondent No.2
Shri R.J. Shinde, Advocate for respondent No.1

CORAM : S.M. MODAK, J.

DATE : 07/12/2020

The original claimant-Tukaram has expired. His legal representatives, Janabai Tukaram Jagtap-respondent No.1-A and Mohan Tukaram Jagtap-respondent No.1-B are already on record. Both have expired. Their advocates have intimated about their death dated 09/02/2014 and 30/11/2014 respectively. This fact was informed by pursis dated 03/11/2020. Thereafter, the present applications have been filed. As the legal representatives were not brought on

record in time, the appeal stood abated against them. It is but natural for the appellant to take steps only after getting knowledge of their deaths. So the reasons for the condonation are sufficient. The details of legal representatives are given on page 2 of Civil Application (CAF) No.1448/2020. Chhagan Tukaram Jagtap and Sudam Tukaram Jagtap two L.Rs. of Janabai- Respondent No.1-A have also expired. The details of their legal representatives are given on page Nos.3 and 4 of the application.

In view of that the legal representatives ought to be brought on record so also, abatement needs to be set aside.

Hence the order

- (i) The delay caused in preferring an application for bringing legal representatives of respondent No.1-A Janabai and 1-B-Mohan is condoned.
- (ii) The order of abatement thereby dismissing the appeal against the respondent No.1-A-Janabai and 1-B Mohan is hereby set aside.
- (iii) The name of the respondent No.1-A and 1-B be deleted and the legal representatives be brought on record as mentioned in Civil Application (CAF) No. 1448/2020.

Shri Shinde, learned advocate waives notice for the newly added legal representatives.

The application is disposed of.

CIVIL APPLICATION (CAF) NO.1451/2020

The claimants want to withdraw Rs. 42,40,811/-, which is deposited as per the order of this Court dated 10/10/2013. The reasons mentioned in the application are convincing. Only 75% of that amount can be allowed to be withdrawn.

The respondent No. 1-C Madan Tukaram Jagtap is the power of attorney holder of other representatives which are permitted to be brought on record today. The copy of power of attorney dated 26/10/2020 is filed on record. They have consented for transferring the amount to his account. Hence the order.

(i) The Nazar is directed to transfer 75% of Rs. 42,40,811/- along with accrued interest thereon in the bank account of Madan Tukaram Jagtap on personal identification.

(ii) Madan Tukaram Jagtap is directed to give an undertaking that he will return the entire amount of 75%, if the decision goes against him.

(iii) Nazar is directed to give the date as early as possible within 10 days.

The application is disposed of.

JUDGE