

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

Civil Application [CAF] No.4008 of 2019
in
First Appeal St. No.10856 of 2019

The Executive Engineer, Chandrabhaga Project, Achalpur
vs.

Shyamlal Jangli Prajapati (Dead), through L.Rs. & others

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

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Court's or Judge's Orders

*Shri P.B. Patil, Advocate for the Applicant-Appellant.
 Shri Mangesh Bute, Advocate for Respondent Nos.1(i) to
 1(viii).
 Ms. H.N. Jaipurkar, A.G.P. for Respondent Nos.2 & 3.*

CORAM : S.M. MODAK, J.

DATE : 8th APRIL, 2021

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

Heard the learned Counsel for the respective parties.

The Reference Court delivered the judgment on 04/09/2015 and the appeal was filed in the Court on 02/05/2019. There was a delay of 1248 days in preferring the appeal. Learned Counsel Shri Patil for the appellant admitted that till 09/12/2015, the delay has been explained from Paragraphs 1 to 5 of the application. He admits that further delay has not been properly explained. He orally submitted that it took time for obtaining the court fee stamps and sympathetically the delay may be condoned as enhancement for the trees has been granted 4½

times of the rate fixed by the Reference Court.

Learned Counsel Shri Bute for the original claimants/contesting respondents has consented for condonation of delay, if entire decretal amount has been deposited. Mr. Patil is ready for that.

Considering the issue involved, the delay is condoned sympathetically. Hence, the delay of 1248 days in preferring the appeal is condoned subject to deposit of entire decretal amount. The application is disposed of.

First Appeal St. No.10856/2019 :

Already the appellant was permitted to deposit the decretal amount within a period of one month. For the reasons beyond control, the amount could not be deposited. Now the learned Counsel for the appellant has received a cheque for an amount of Rs.62,27,889/-. Hence, the office is directed to accept the cheque and the appellant has been granted three weeks' time to deposit the same.

Civil Application [CAF] No.4009/2019 :

Heard.

The appellant is ready to deposit the decretal amount. Hence, stay is granted to the execution of the judgment and decree subject to deposit of entire decretal amount till final disposal of the appeal.

The application is disposed of.

JUDGE