

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

CIVIL APPLICATION (F) NO.1029 OF 2019

AND

CIVIL APPLICATION (F) NO.1030 OF 2019

IN

FIRST APPEAL (ST) NO.25885 OF 2018

[The Executive Engineer and Anr. **..Versus..** Gangaram Motiram
Kunchankar and Ors.]

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

Court's or Judge's order

Shri. P. B. Patil, Advocate for the Applicants
Mrs. M. H. Deshmukh, AGP for the Non-Applicant Nos.3 and 4.

CORAM : V. M. DESHPANDE, J.

DATE : 29th NOVEMBER, 2021.

1. This is an Application for condonation of delay in filing the First Appeal.
2. The learned Counsel Shri. P. B. Patil appears for the Applicants. On the present Application for condonation of delay and also on the Application No.1030 of 2019 i.e. Application for stay, notices were issued and in view of the statement made by the learned Counsel Shri. P. B. Patil, the judgment and award dated 09.08.2016 passed by the learned Joint Civil Judge Senior Division, Kelapur was stayed until further order.
3. It appears that during the pendency of this present Application, Non-Applicant Nos.1 and 2 could not be served because of non supply of the correct address by the Applicants to the Registry. In spite of

ample opportunity given to the appellant, the correct addresses were not supplied. Consequently, the Registrar (J) of this Court on 11.02.2020 dismissed the matter against the Non-Applicant Nos.1 and 2, who are the main contesting parties, they being claimants.

4. As per the order dated 05.03.2019 passed in Civil Application No.1030 of 2019, though stay was granted in favour of the Applicants on a condition that the Applicants will deposit the entire amount, the learned Counsel for the Applicants submitted that even as on today, the amount is not deposited. Consequently, the Applicants/Appellants are enjoying the stay order of this Court without adhering with the condition. Further, till today no steps are taken by the Applicants for setting aside the order passed by the Registrar (J).

5. In that view of the matter and since the Application against the original claimants is already dismissed, I see no reason to keep this matter pending. Consequently, I pass the following order :

ORDER

- i) Civil Application No.1029 of 2019 is **dismissed**.
- ii) Civil Application No.1030 of 2019 stands **dismissed**.
- iii) Ad-interim stay granted by this Court on 05.03.2019 in Civil Application No.1030 of 2019 stands vacated and the original claimants shall be entitled to execute the decree against the Applicants.

iv) Consequent upon dismissal of Application for condonation of delay, the Appeal is dismissed.

JUDGE

TAMBE

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