

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

907 CIVIL APPLICATION NO.9989 OF 2015
IN AO/6/2007 WITH CA/10601/2005 IN AO/6/2007

GODAWARI MARATHWADA IRRIGATION DEVELOPMENT CORPORATION
AURANGABAD THROUGH ITS EXECUTIVE ENGINEER AND OTHERS
VERSUS
DURGA APPA PAWAR DIED THROUGH LRS KASHIBAI DURGA PAWAR AND OTHERS

...
Advocate for Applicant : Mr. Santosh B. Mene
Advocate for the respondent nos. 1-A to 1-D : Mr. L.V. Sangit
...

CORAM : MANGESH S. PATIL, J.

DATE : 15 MARCH 2022

PC :

Civil application no. 9989 of 2015 is filed for setting aside abatement with prayer to condone the delay on account of death of sole respondent - Durga Appa Pawar, who died on 19-12-2009.

2. I have heard learned advocates for both the sides.

3. As can be appreciated from the recitals in the application, the learned advocate for the sole respondent had furnished the information under Order XXII Rule 10-A of the Code of Civil Procedure by his communication dated 20-08-2011 (Exhibit - B page 9). The fact has been admitted by the appellant in paragraph no. 2 of the application.

4. Though it has been averred in the application that soon thereafter the steps were taken and the application was filed, in-fact, the application for bringing on record the LRs has been filed after the

enormous delay of 1955 days. In spite of the application having been contested on behalf of the proposed LR of respondent, no attempt has been made to explain the delay. The application is clearly devoid of any statement explaining the delay. There is no iota of material to demonstrate that the delay was not deliberate or intentional. There is absolutely no whisper as to what really had caused the delay or steps taken by the appellant soon after receipt of the information of the death of the sole respondent.

5. In the absence of even faint attempt to explain away the enormous delay, the application is liable to be rejected and is accordingly rejected.

6. Appeal from order no. 6 of 2007 is disposed of.

7. Pending civil application no. 10601 of 2005 is disposed of.

[MANGESH S. PATIL]
JUDGE

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