

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

CIVIL APPLICATION (F) NO.1104 OF 2022

IN

FIRST APPEAL (ST) NO.2040 OF 2022

{Executive Engineer **..Vrs..** Gambhir Paikaji Bhil (Bhaskar (Since
dead) thr LRs 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 J. B. Kasat, Advocate for the Applicant/Appellant.
Ms T. H. Udeshi, AGP for the Respondents No.7 and 8.

CORAM : ABHAY AHUJA, J.

DATE : 18th OCTOBER, 2022.

. This is an application seeking condonation of delay of 1145 days in preferring an appeal against the judgment and award dated 13.10.2016, passed by the Civil Judge Senior Division, Achalpur in Land Acquisition Case No.99 of 2008.

2. On 29.09.2022, this Court had directed filing of an additional affidavit for furnishing better particulars explaining the delay between June-2017 and October-2021. Thereafter, the additional affidavit came to be filed on 10.10.2022, pursuant to which, it was *inter alia* submitted that it is due to the failure of the concerned dealing Clerk as well as the Engineers, who are responsible, to comply with the communication dated 04.05.2017 that the delay between the period June-2017 and October-2021 had occurred.

3. On 13.10.2022, Shri Kasat, learned counsel for Appellant had sought time to place on record the communication dated 04.05.2017.

4. Today, by way of a Pursis dated 14.10.2022, the said communication dated 04.05.2017 is sought to be brought on record. The same is taken on record. This is a communication from Shri Kasat, learned counsel addressed to the Executive Engineer not only with respect to LAC No.99 of 2008, concerned in this appeal, but also the LAC numbers in other connected appeals. A request has been made therein to remit an amount of Rs.1,08,810/- by way of Demand Draft for all the LACs referred to therein in his name alongwith reasons for the delay as well as certified copies of the impugned orders at the earliest so as to file the appeals as the limitation had already expired. From paragraphs 2 to 4 of the additional affidavit, it is observed that show cause notices have been issued to the dealing Clerk as well as three Sub Divisional Engineers, who have been purportedly held responsible for the failure to comply with the communication dated 04.05.2017 till October-2021.

5. Learned counsel also draws the attention of this Court to paragraph 2 of the application for explaining the delay for the period between 13.10.2016 and 04.05.2017 and then from October-2021 to December-2021, Intervening period between June-2017 to October-2021 having already been explained in the additional affidavit as mentioned above.

6. None for the Respondents No.1 to 6 though served.

7. Ms Udeshi, learned Assistant Government Pleader represents Respondents No.7 and 8 and submits to the orders of this Court.

8. I have heard learned counsel for Appellant and also perused the application, the additional affidavit as well as the communication dated 04.05.2017. No doubt, the delay between June-2017 and October-2021 appears to be attributable to the dealing Clerk and the Engineers referred to in the additional affidavit in respect of which show cause notices have been issued. An organization such as the V.I.D.C. needs to put in place a mechanism, whereby incidents of such nature are avoided and a policy of zero delay needs to be considered. Nothing further needs to be said.

9. In view of the explanation in the application as well as the additional affidavit and the submissions by the learned counsel for the Acquiring Body, let the delay of 1145 days be condoned. Let the appeal be registered within a period of two weeks.

10. The civil application accordingly stands **allowed** in the above terms.

11. Let the outcome of the proceedings initiated against the erring employees be reported to this Court in sealed cover envelope.

(JUDGE)

TAMBE