

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

CAF No.2264/2022 in First Appeal St. No.2815/2021

VIDC, Executive Engineer, Bembala Project, Yavatmal V Narayan and others

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

Court's or Judge's Orders

Mr. A.M. Kukday, Advocate for appellant.
Mr. A.B. Nakshane, Advocate for resp. no.1
Mr. M.A. Kadu, AGP for resps. no.2 and 3.

CORAM : ABHAY AHUJA, J.
DATE : 11-10-2022

Civil Application (F) No.352/2022

By this application, the applicant is seeking condonation of delay of 554 days in preferring an appeal against the judgment and award passed by the Joint Civil Judge, Senior Division, Yavatmal in LAC No.233/2015, whereby the Reference Court has enhanced the compensation granted by the Land Acquisition Officer. Mr. Kukday, learned Counsel draws the attention of this Court to paragraphs 2 to 4 of the application in support of his contentions.

2. Learned Counsel for the respondents has no particular objection if the delay is condoned and the appeal is registered.
3. Having heard the learned Counsel for the applicant and having perused the application, this Court is satisfied that there is sufficient cause made out for condonation of delay.
4. The delay of 554 days in filing this appeal is

condoned.

5. The Registry is directed to register the First Appeal.
6. Application stands disposed.

First Appeal St. No.2815/2021

The learned Counsel for the appellant submits that the subject matter of the Appeal is also covered by the decision of this Court in First Appeal No.131/2016 dated 21-02-2019. The learned Counsel agrees to place the said decision on record. The learned Counsel for the respondents also confirms the same.

2. A perusal of the decision indicates that for the acquisition of land from village Pahur, Tal. Babhulgaon, District Yavatmal for the purposes of Bembla Project under Notification dated 11-05-2000 under Section 4(1) of the Land Acquisition Act, 1894 and award dated 17-10-2003, this Court relying upon the decision dated 19-12-2018 of this Court in First Appeal St. No.189/2018 (VIDC and another vs Vasant Patre and others) has adjudicated the open plot at the rate of Rs.750/- per sq.mtr. maintaining the enhancement granted for the constructed area.

3. It is observed from the Memo of Appeal and the impugned order in this Appeal that in this case also the land admeasuring 43.40 sq.mtrs. alongwith construction situated at village Pahur has been acquired for the Bembla Project under the same Section 4(1) Notification dated 11-05-2000 and the same award dated 17-10-2003. As such, in view of settled law that similarly situated persons covered by the same notification be

granted the same compensation and ought not to be discriminated, the acquisition herein also deserves the same treatment as in the decision cited above.

4. In this view of the matter, the decision dated 31-03-2018 in respect of LAC No.233/2015, is hereby modified such that the amount of compensation for the open plot be adjudicated at the rate of Rs.750/- per sq.mtr. and the enhancement granted for the constructed area be maintained as it is.

5. Let the acquiring body deposit the compensation on the basis of the above discussion within a period of four weeks.

6. The claimants are permitted to withdraw the said amount calculated on the basis of the above discussion soon after the same has been deposited in this Court.

7. Registry to act accordingly.

8. The Appeal stands allowed in the above terms. No costs.

9. All pending applications accordingly stand disposed.

(Abhay Ahuja, J.)