

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

**CIVIL APPLICATION (F) NO. 854 OF 2020**

**WITH**

**CIVIL APPLICATION (F) NO.855 OF 2020**

**AND**

**CIVIL APPLICATION (F) NO.647 OF 2020**

**IN**

**FIRST APPEAL NO.230 OF 2009**

{Western Coal Fields Ltd., Chandrapur **..Vrs..** Shantabai w/o Dadaji  
 Khusapure and Anr.}

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

*Court's or Judge's order*

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Ms M. Munshi, Advocate for the Appellant.  
 Shri A. De, Advocate for the Respondent No.1.  
 Ms T. H. Udeshi, AGP for the Respondent No.2.

**CORAM : ABHAY AHUJA, J.**

**DATE : 14<sup>th</sup> SEPTEMBER, 2022.**

. The applicant has filed Civil Application No.854 of 2020 for condonation of delay of 2 years and 314 days in filing application for setting aside abatement, Civil Application No.855 of 2020 for setting aside abatement against the respondent no.1 as well as Civil Application No.647 of 2020 for bringing the legal heir of the respondent no.1 stated in paragraph 5 of the application on record with permission to withdraw the amount of compensation.

2. The learned counsel for the applicant submits that the respondent no.1 has passed away on 21.11.2015. He submits that the appeal has been decided by this Court on 12.02.2019 and the appeal has been dismissed. He further submits that the applicant is desirous of withdrawing the amount deposited in this Court and for that purpose this application is filed.

3. The learned counsel for the appellant/WCL and the learned Assistant Government Pleader for the respondent no.2 have no objection, if the applications are allowed.

4. Having heard the learned counsel for the parties and having perused the applications, the applications are allowed in terms of prayer Clause(s) therein. The delay of 2 years and 314 days is hereby condoned, the abatement against respondent no.1 is set aside and the legal heir of respondent no.1 as stated in paragraph 5 of the subject application is brought on record.

5. Considering that the appeal filed by the appellant/WCL has been dismissed, the applicant may withdraw the amount of compensation deposited by the appellant alongwith interest within a period of four weeks from the date hereof. Registry to co-operate with the applicant.

6. The civil applications accordingly stand disposed.

(JUDGE)

TAMBE



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Ms M. Munshi, Advocate for the Appellant.  
Shri A. De, Advocate for the Respondent No.1.  
Ms T. H. Udeshi, AGP for the Respondent No.2.

**CORAM : ABHAY AHUJA, J.**

**DATE : 14<sup>th</sup> SEPTEMBER, 2022.**

. By this application, the applicant-son of deceased respondent no.1 is seeking to be substituted as respondent no.1. The respondent no.1 has passed away on 21.11.2015. The learned counsel for the applicant submits that the appeal has been decided by this Court on 12.02.2019 and the appeal has been dismissed. He further submits that the applicant is desirous of withdrawing the amount deposited in this Court and for that purpose this application is filed.

3. The learned counsel for the appellant and the learned Assistant Government Pleader for the respondent no.2 have not objection, if the applications are allowed.

4. Having heard the learned counsel for the parties and having perused the applications, the applications are allowed in terms of prayers therein.

5. The civil applications stand disposed of.

(JUDGE)

TAMBE