

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

CAF No.1138/2022 in First Appeal St. No.14459/2022

Maharashtra Jivan Pradhikaran, Yavatmal V Dhanraj 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. D.M. Kakani, Advocate for appellant.

Mr. V.N. Patre, Advocate for resp. no.1.

Mr. U.A. Gosawi, Advocate for resp. no.4.

Ms T.H. Udeshi, AGP for reps. no2 and 3.

CORAM : ABHAY AHUJA, J.

DATE : 14-10-2022

Heard,

2. This is an application seeking condonation of delay of 562 days in preferring the appeal against the judgment and order dated 21-06-2018 passed by the Civil Judge Senior Division, Yavatmal in LAC No.239/2013, whereby the compensation was enhanced. On 29-09-2022, this Court had directed the appellant to file an additional affidavit explaining the delay of 562 days in filing the appeal. The appellant on 10-10-2022 filed an additional affidavit seeking to explain the delay. It is stated therein that the appellant was not the acquiring body and therefore was not party to the original reference under Section 18 of the Land Acquisition Act and also in the execution case. It is stated that the appellant became aware of these proceedings for the first time on 28-01-2020, when the warrant of attachment in the execution case was served upon them. It is submitted that thereafter the Yavatmal

office of the appellant obtained sanction from the central office at Mumbai on 30-03-2020. Thereafter, an application for certified copy was filed on 16-03-2020, which was obtained on 25-06-2020 and the same was handed over to the Panel Advocate on 05-07-2020. It is stated therein that finally the central office of the appellant had sent letter dated 06-01-2021 and ultimately, on 01-09-2021, Court fees for filing the appeal was deposited. The appeal was filed in the month of October, 2021. It is further explained that due to Covid 19 pandemic, no steps could be taken to file the appeal.

3. The learned Counsel for the respondents and learned AGP for the State have no objection if the delay is condoned and the appeal is registered.

4. 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.

5. The delay of 562 days in filing this appeal is condoned.

6. The Registry is directed to register the First Appeal within a period of two weeks.

7. Application stands disposed in the above terms.

Civil Application (F) No.2285/2022

This is an application filed by respondent no.1 seeking to set aside the stay granted on the execution of the impugned judgment and decree dated 21-06-2018 passed by the Civil Judge,

Senior Division, Yavatmal in LAC No.239/2013 on the ground that the entire amount has not been deposited. Earlier on 16-06-2022 this Court had granted a stay on the execution proceeding subject to deposit of 50% of the amount which the appellant had already deposited in the execution proceedings pursuant to summons dated 28-09-2019 therein.

2. The learned counsel for the appellant seeks time to file reply in the matter.
3. Let the reply be filed within a period of two weeks.
4. Rejoinder, if any be filed within a week thereafter.
5. List the matter on 11-11-2022.

First Appeal St. No.14459/2021

The Appellant to serve the copy of Memo of Appeal along with complete Annexures on the respondents within a period of four weeks and an affidavit of service with tangible proof be filed in this Court.

2. List the matter on 11-11-2022 along with First Appeal Stamp No.13655/2022.

(Abhay Ahuja, J.)