

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

CIVIL APPLICATION (F) NO.1115 OF 2020
IN
FIRST APPEAL ST. NO. 22085 OF 2017

EXECUTIVE ENGINEER, UPPER WARDHA CANAL DIVISION NO.1, AMRAVATI
VERSUS
NANDKISHOR S/O UDDHAORAO DESHMUKH AND OTHERS

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

Court's or Judge's orders

Shri Abhijit Parihar, Advocate for applicant/appellant.
Shri S. S. Dhengale, Advocate for respondent No.1.
Shri A. M. Kadukar, AGP for respondent Nos.2 and 3.

CORAM : V. G. BISHT, J.
DATE : 14/03/2022

1. The applicant has impugned the Judgment and award dated 27/11/2013 passed by 3rd Joint Civil Judge, Senior Division, Amravati in LAC No.140/2005 by way of First Appeal. Since the appeal is barred by 1319 days, present application seeking condonation of delay has been filed.

2. Shri Abhijit Parihar, learned counsel for the applicant has reiterated the contents of condonation of delay application.

3. Shri S. S. Dhengale, learned counsel for respondent No.1 and Shri A. M. Kadukar, learned Assistant Government Pleader for respondent Nos.2 and 3, on the other had, have opposed the application by contending that no explanation muchless reasonable or satisfactory explanation is offered by the

applicant for condonation of delay. Learned counsel took me through the contents of application and pointed out as to how the contentions raised in the application are not tenable and do not offer plausible explanation. Learned counsel also placed reliance in **P. K. Ramchandran Vrs. State of Kerala and another**, reported in **(1997) 7 SCC 556**.

4. It appears that the impugned Judgment and award came to be passed on 27/11/2013 and certified copy was received on 31/12/2013. It is also seen from the application that the certified copy of the said impugned Judgment and award was received by the office of Jurisdictional Executive Engineer of appellant - Corporation from the counsel on 14/08/2015. Thereafter, all the relevant documents were sent to the Superintending Engineer on 08/09/2015, who in turn forwarded the file to the office of the appellant - Corporation on 05/10/2015. The appellant - Corporation had on 17/10/2015 decided to challenge the impugned Judgment and award. Since there were other matters and due to paucity of staff members, it took considerable time and also there was demand of Court fee in bulk matters. Meantime, inadvertently, the file along with documents got misplaced from the office of counsel and it is only after the file was traced out, the instant appeal came to be filed.

5. The above averments contained in the application would show that from the date of passing of the impugned Judgment and award, there was lethargy not only on the part of

learned counsel for the appellant, who almost took two years to forward the certified copy of the impugned Judgment and award to the Jurisdictional Executive Engineer of appellant - Corporation, but even the appellant also did not bother to take care of the Judgment and award. Then file came to be misplaced. There were shortage of staff and also the Court fees. The approach of the appellant is self-explanatory and appears to be marred by complacency and nothing else.

6. In the case of P. K. Ramchandran (supra), it has been held by the Hon'ble Supreme Court that the law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and the Courts have no power to extend the period of limitation on equitable grounds.

7. In that case, there was delay of 565 days in filing the first appeal by respondent - State and the same was allowed by the High Court taking into consideration the averments contained in the affidavit filed in support of the petition to condone the delay. Hon'ble Apex Court however did not find favour with the observations of the High Court and observed that there was no reasonable, satisfactory or even proper explanation for seeking condonation of delay.

8. Reverting back to the case in hand and after examination of averments made in the application, I am of the considered view that the applicant has not been able to offer

satisfactory and convincing explanation for condonation of inordinate delay of 1319 days. The application lacks merits.

9. In view of the above, the application is rejected. No costs.

10. Consequently, the First Appeal also stands rejected.

[V. G. BISHT, J.]

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