

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

CIVIL APPLICATION (CAF) NO. 435 OF 2020

IN

FIRST APPEAL (ST) NO. 22545 OF 2018

Vidarbha Irrigation Development Corporation, Nagpur and anr.

Vs.

Sudhakar Nagorao Mundhe and Ors.

WITH

FIRST APPEAL NO. 1267 OF 2017

FIRST APPEAL NO. 1498 OF 2019

FIRST APPEAL NO. 1646 OF 2019

FIRST APPEAL NO. 946 OF 2018

FIRST APPEAL NO. 214 OF 2021

FIRST APPEAL NO. 953 OF 2017

FIRST APPEAL NO. 1493 OF 2019

FIRST APPEAL NO. 1499 OF 2019

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

Court's or Judge's Orders.

Mr. Vinay Dahat, Advocate h/f Mr. J.B. Kasat, Advocate
for applicants/appellants in FA (St.) No.22545/2018.

Mr. V.D. Darne, Advocate for respondent No.1 in FA (St.)
No.22545/2018.

Mr. M.A. Kadu, AGP for respondent Nos. 2 & 3 in FA (St.)
No.22545/2018.

Ms. A.S. Athalye, Advocate for appellants/appellants in
FA No.214/2021.

Mr. P.S. Kshirsagar, Advocate for respondent No.1 in FA
No.214/2021.

Mr. S.K. Bhoyar, Advocate for appellant/applicant in FA
No.1493/2019.

CORAM : ABHAY AHUJA, J.

DATE : 13.09.2022.

Civil Application (CAF) No.435/2020

This is an application seeking condonation of delay of 475 days in filing the appeal against the judgment and award passed by the Joint Civil Judge Senior Division, Yavatmal, in LAC No.416/2012 decided on 19.01.2017.

2. Mr. Dahat, learned counsel for the appellants/applicants submits that this appeal pertains to an acquisition relating to village Kolambi with respect to the minor irrigation project pursuant to which several lands located in an around village Kolambi have been acquired and in respect of which several first appeals have already been admitted by this Court.

3. Mr. Darne, learned counsel for the respondent No.1, has no objection, if the delay is condoned and the appeal is registered.

4. Having heard the learned counsel for the parties and having perused the papers and proceedings, the application is allowed.

5. The delay of 475 days in filing the appeal is hereby condoned.

6. The Registry is directed to register the first appeal.

7. The civil application is allowed in the above terms.

First Appeal (St.) No.22545/2018

Considering the fact that several appeals with respect to the lands acquired under the Kolambi Minor Irrigation Project have already been admitted, the following order is passed:

ORDER

i] **Admit.**

ii] Registry is directed to call for Record and Proceedings.

iii] Private Paper book along with compilation of documents and evidence be filed within a period of eight weeks.

iv] Let the Memo of Appeal along with compilation of documents and evidence be served on the respondents within a period of eight weeks and an affidavit of service with tangible proof be filed in this Court.

2. Mr. Darne, learned counsel waives service of notice on behalf of respondent No.1. Mr.M.A. Kadu, learned AGP waives service of notice on behalf of respondent Nos.2 and 3.

3. List on 10.11.2022.

Civil Application (CAF) No. 983/2022

By this application, the respondent No.1 is seeking to withdraw the amount deposited in the Registry of this Court on 31.08.2020 by the appellants.

2. Mr. Dahat, learned counsel for the appellants/applicants has drawn attention of this Court to paragraph 4 of the application and submits that the applicants are in dire need to recommence their business, which has been stopped in view of the circumstances relating to the Covid-19 Pandemic. In view of the financial crisis and the need for money, he urges this Court that the application be allowed and the applicants be permitted to withdraw an amount of Rs.11,64,403/- along with interest

accrued thereon, on the terms and conditions that may be imposed by this Court.

3. Mr. Darne, learned counsel for the respondent No.1 submits that withdrawal may be allowed only up to 50% of the amount deposited in this Court, subject to solvent surety/security. He further submits that the balance 50% amount can be retained with this Court till the final disposal of the appeal.

4. Having heard the learned counsel for the parties and having perused the application and after considering the exigent circumstances of the applicant, the following order is passed:

(a) 50% of the aforesaid amount is allowed to be withdrawn by the respondent No.1 upon furnishing of solvent surety/security;

(b) The balance 50% of the amount is allowed to be withdrawn by the respondent No.1 upon furnishing the usual undertaking that in the event, the appeal is allowed, the respondent No.1 shall refund the amount

withdrawn with interest to the
appellants/applicants.

5. The civil application is allowed in the
above terms.

JUDGE