

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

CIVIL APPLICATION (CAF) NO.2058 OF 2019

IN
FIRST APPEAL STAMP NO.4895 OF 2019

Dy. Chief Engineer (construction), Central Railway, Nagpur

Vs.

Shri Shankar Arjun Wagde and others

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

Court's or Judge's orders

Mr. N. P Lambat, Advocate for the appellant.

Mr. D. U. Thakre, Advocate for the respondent No.1.

Ms. Shamsi Haider, AGP for respondent Nos.2 and 3.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 08/02/2023

1. By preferring this application, the appellant is seeking condonation of delay of 33 days which is caused in filing the appeal against the judgment and award passed by Joint Civil Judge Senior Division, Wardha in Land Acquisition Case No.115 of 2014.

2. The learned Advocate Mr. D. U. Thakre waives notice for respondent No.1.

3. Ms. Shamsi Haider, learned AGP waives notice for respondent Nos.2 and 3.

4. As per the contention of the appellant, the learned reference Court had awarded the compensation amount which is excessive and exorbitant one. Therefore, appellant preferred this appeal. However, as the appellant has to obtain necessary approval from the higher officials delay of 33 days is caused.

Delay is not intentional one. There is sufficient and reasonable cause for the said delay, as the time was consumed the administrative process. In view of that delay be condoned.

5. The said application is strongly opposed by learned Advocate Mr. D. U. Thakre, for the respondent No.1 on the ground that the delay is not sufficiently explained. The learned AGP has no objection for condonation of delay.

6. Heard both the sides.

7. Perused the application. Admittedly, this appeal is filed by the appellant to challenge the judgment and award passed by the reference Court. Appellant has to obtain the necessary approval from the higher officials, therefore delay is caused. It is also well settled that while considering the delay application, Court has to take the liberal and pragmatic approach and not the pedantic approach.

8. Considering the reasons mentioned in the application, reasonable and justifiable reason is made out. In view of that, delay of 33 days is condoned.

9. Appeal be registered.

10. Civil Application is disposed of.

FIRST APPEAL NO. OF

1. **Admit.**

2. The learned Advocate Shri D. U. Thakre waives notice for respondent No.1.

3. The learned AGP waives notice for respondent Nos.2 and 3.

4. Call for record and proceedings.

6. The appellant to file private paper-book within eight weeks. After receipt of the record and proceedings, stand over after eight weeks.

Civil Application (CAF) No.354 of 2023

1. By preferring this application, respondent No.1 is seeking withdrawal of the amount. As per the contention of the respondent No.1 his land is acquired, and therefore he has no source of income. He is in need of money for his day to day course, and hence he may be permitted to withdraw the entire compensation of amount.

2. The said application is opposed by the learned Advocate for the appellant on the ground that the appellant has challenged the judgment and award as the compensation amount is awarded excessive and exorbitant one.

3. In view of the reasons mentioned in the application, and the objection raised by the appellant, it will be just and proper to permit the respondent No.1 to withdraw 50% of the amount deposited by the appellant. Thus, the respondent No.1 is permitted to withdraw 50% of the amount on usual undertaking.

4. Civil Application is disposed of.

(URMILA JOSHI-PHALKE, J.)