

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

CIVIL APPLICATION (CAF) NOS. 250 OF 2023
IN
FIRST APPEAL NO. 616 OF 2016

V. I. D. C. THROUGH ITS EXECUTIVE ENGINEER, BEMBLA PROJECT DIVISION, YAVATMAL

...VERSUS...

TRIMBAK S/O. GANPATRAO KAWALKAR AND OTHERS

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

Court's or Judge's order

Shri J.T.Gilda, Advocate h/f. Shri A.P.Batil, Advocate for appellant.
Shri A.B. Nakshane, Advocate for LR's. of respondent nos. 1 and 2.
Shri M.A. Kadu, AGP for respondent nos. 3 and 4/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 31st JANUARY, 2023

By this application, the appellant is seeking condonation of delay which is caused in bringing the legal heirs of respondent no. 2(ii) i.e. Baynabai Lokhande on record, however, delay of 518 days is caused.

2. Shri A.B.Nakshane, learned counsel waives notice for the proposed legal heirs of respondent no. 2(ii) i.e. Baynabai Lokhande.

3. As per the contention of the appellant, during the pendency of appeal, respondent no. 1(i) is expired. When the notices were issued to the respondents on the application for bringing the legal heirs, it came to his notice that respondent no. 2(ii) i.e. Baynabai Lokhande has also expired on 24/05/2021. The bailiff report to this effect came on record on 24/01/2022. Therefore, the delay of 518 days is caused in bringing the legal heirs of respondent no. 2(ii) on record.

4. Shri A.B.Nakshane, learned counsel has no objection for condonation of delay. In view of the reasons mentioned in the application, application is allowed. Delay of 518 days is hereby condoned in bringing the legal heirs of respondent no. 2(ii) on record.

5. Accordingly, the application is disposed of.

CIVIL APPLICATION (CAF) NOS. 251 OF 2023

By this application, the appellant is seeking setting aside abatement order.

2. Shri A.B.Nakshane, learned counsel waives notice for the proposed legal heirs of respondent no. 2(ii) i.e. Baynabai Lokhande.

3. As per the contention of the appellant, after the bailiff report was received in this Court, the appellant got knowledge about the death of respondent no. 2(ii) i.e. Baynabai Lokhande, in between, the abatement order was passed. There is just and reasonable cause for setting aside the abatement order. In view of the reasons mentioned in the application and as Shri A.B.Nakshane, learned counsel has no objection for setting aside the abatement, application is allowed. The abatement order passed against respondent no. 2(ii) is hereby set aside.

4. Accordingly, the application is disposed of.

CIVIL APPLICATION (CAF) NOS. 254 OF 2023

By this application, the appellant is seeking permission to bring the legal heirs of respondent no. 2(ii) i.e. Bainabai Lokhande on record.

2. Shri A.B.Nakshane, learned counsel waives notice for the proposed legal heirs of respondent no. 2(ii) i.e. Baynabai Lokhande.

3. In view of the reasons mentioned in the application, application is allowed. The appellant to carry out the amendment by bringing the legal heirs of respondent no. 2(ii) on record. The amendment to be carried out within stipulated period.

4. Accordingly, the application is disposed of.

FIRST APPEAL NO. 616 OF 2016

Stand over to three weeks.

(URMILA JOSHI-PHALKE, J.)

B.T.Khapekar