

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

CIVIL APPLICATION NO.3380 OF 2019

IN

FIRST APPEAL (ST.) NO.2653 OF 2019

(VI.D.C. Vs. Jitendrakumar Hirachandji Munot and ors.)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Ms A.S. Athalye, Advocate for the appellant.
Shri A.B. Nakshane, Advocate for respondent No.1.
Shri M.A. Kadu, AGP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- MARCH 28, 2023.

Heard.

2. By this application, the appellant is seeking stay to the effect, operation and implementation of the impugned judgment dated 10/01/2018 passed by the 2nd Joint Civil Judge, Senior Division, Yavatmal in LAC No.144/2012.

3. Ms Athalye, learned Counsel for the appellant submitted that the amount is already deposited.

4. In view of the statement made, the implementation, effect and operation of the impugned judgment dated 10/01/2018 passed by the 2nd Joint Civil Judge, Senior Division, Yavatmal in LAC No.144/2012, be stayed till final disposal of the appeal.

5. Civil application is disposed of.

CIVIL APPLICATION NO.3379 OF 2019

Heard.

2. Present application is for condonation of delay which is caused in filing the appeal.

3. As per the contention of the appellant, the appellant is a statutory body who has to obtain the necessary approvals before filing of the appeal wherein the time was consumed, and therefore, delay of 241 days is caused in preferring the appeal. Delay is not intentional one.

4. Said application is strongly opposed by Shri Nakshane, learned Counsel for respondent No.1 on the ground that the delay is not properly explained.

5. Learned Assistant Government Pleader has no objection for condonation of delay.

6. Perused the application and the reasons mentioned therein. The reason appears to be reasonable and just one. While considering the delay application, the liberal approach is to be taken to do the substantial justice.

7. In view of that, application is allowed and the delay of 241 days is condoned.

FIRST APPEAL (ST.) NO.2653 OF 2019

Appeal be registered.

2. **ADMIT.**

3. Shri Nakshane, learned Counsel for respondent No.1 and Shri Kadu, learned Assistant Government Pleader for respondent Nos.2 and 3, waive notice.

4. Call for R. & P.

5. The appellant to file private paper book within eight weeks after receipt of R. & P.
6. Place the matter for final hearing after filing of paper book and its verification, as per its turn.

CIVIL APPLICATION NO.874 OF 2023

Heard.

2. Present application is filed for seeking permission for withdrawal of the amount which has been deposited by the appellant in this Court and part amount is deposited in the reference Court.
3. Shri Nakshane, learned Counsel for respondent No.1 is submitted that in connected matter Civil Application No.950/2022 in First Appeal No.274/2020 vide order dated 26/04/2022, this Court has already permitted the appellant to withdraw the entire amount of compensation.
4. Said contention is objected by Ms Athalye, learned Counsel for the appellant on the ground that the appellant has challenged the judgment and award as the amount of compensation awarded is excessive and exorbitant one. The Land Acquisition Officer has granted Rs.98,500/- per Hecter for acquired land which was enhanced by the reference Court to Rs.4,70,000/- per Hecter and amount of Rs.2,29,030/- which is the compensation calculated in terms of the award of the reference Court.
5. For the reasons mentioned in the application, though the the application is opposed by the learned

Counsel for the appellant, the application deserves to be allowed.

6. Respondent No.1 is permitted to withdraw the amount of Rs.2,29,030/- along with accrued interest on usual undertaking.

7. Civil application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*