

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

CIVIL APPLICATION (CAO) NO. 286 OF 2023
IN
MISC. CIVIL APPLICATION (ST.) NO. 4225 OF 2023
IN
FIRST APPEAL (ST.) NO. 12907 OF 2021

Maharashtra State Power Generation Co. Ltd., through its Executive Engineer (C),
Civil Construction Unit, T.P.S. Paras, Tah. Balapur, Dist. Akola
..VS..

Bhaurao S/o Ramrao Hiwarale 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.G. Mohrir, Advocate for applicant.
Ms. Shamsi Haider, A.G.P. for respondent No.11.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : FEBRUARY 27, 2023

CIVIL APPLICATION (CAO) NO. 286 OF 2023

By this application the applicant/appellant seeking the condonation of delay of 57 days in filing application for restoration of the First Appeal under Section 5 of the Limitation Act, 1963.

2. Learned Advocate Mr. Mohrir submitted that appeal is filed against the Judgment and Award dated 31.03.2021 passed by the 4th Joint Civil Judge, Senior Division, Akola in Land Acquisition Reference Case No. 513 of 2012. The appeal was listed before the Registrar (Judicial) of this Court wherein the applicant/appellant was directed to remove the office

objections within a period of 14 days from the date of the order. On non removal of the office objections, the Registrar (Judicial) rejected the registration of the appeal. Inadvertently, the learned counsel has not noted the said order and therefore, there is delay of 57 days. He further submitted that for the inadvertent mistake of the learned counsel for the appellant, appellant should not suffer. The reasons mentioned in the application is justifiable one and therefore, delay be condoned.

3. Learned A.G.P. has no objection for condonation of delay.

4. Heard learned counsel for the applicant/appellant and learned A.G.P.

5. Perused the application. It is apparent that the conditional order was passed by the Registrar (Judicial) that to remove the office objections within a period of 14 days and non removal of the office objections the registration was rejected. The said order was not noted by the learned counsel inadvertently and therefore, delay is caused.

6. In view of the reasons mentioned in the application which is sufficient and justifiable one, hence the delay of 57 days to file the application for restoration of the First Appeal is condoned.

The Civil Application No. 286 of 2023 is disposed of.

MISC. CIVIL APPLICATION (ST.) NO. 4225 OF 2023

On removal of the office objections within a period of two weeks, Appeal be restored on its registration stage. On failure to remove the office objections within a period of two weeks the original order of rejection of the registration will survive.

The Misc. Civil Application is disposed of.

Steno copy of the order be supplied to the learned counsel for the applicant/appellant.

(URMILA JOSHI-PHALKE, J.)

Kirtak