

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

CIVIL APPLICATION (CAF) NO. 2554/2021 IN
FIRST APPEAL STAMP NO. 5634/2021

Executive Engineer, Purna Medium Project Achalpur Division

Vs.

Mrunaltai W/o Vitthalrao Pise and others

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

Court's or Judge's orders

Shri Vinay Dahat, Advocate h/f Shri J.B. Kasat, Advocate for appellant
Shri R.J. Shinde, Advocate for respondent No.1
Ms H.N. Jaipurkar, AGP for respondent Nos. 2 & 3

CORAM : SMT. M.S. JAWALKAR, J.

DATE : 14/06/2023

Present application is filed for condonation of delay in filing first appeal. It appears that there is delay of 1368 days in filing first appeal. It is submitted that some time was consumed in forwarding proposal and obtaining opinion from the Division Office and the Executive Engineer. The proposal was forwarded from one authority to another and ultimately Legal Advisor approved the proposal for filing appeal on 05/01/2018. Thereafter, the matter was referred to Counsel for filing appeal. The concerned Counsel communicated on 12/01/2018, that court fee is required, accordingly the demand was made of the amount to Divisional Office. The said court fees was transferred by NEFT in the account of present Counsel on 27/04/2018 However,

information was not given to the present Counsel till 24/03/2021, about sending of court fee amount by NEFT. The practice earlier followed was that the amount of court fee needs to be given by way of cheque. However, at this time the amount was transferred to NEFT and not intimated that such amount is transferred. In this process, the delay of 1368 days was occurred in filing appeal.

2. The respondents vehemently opposed the application.

3. It is true that public money is involved. However, that does not give any liberty to the department not to show diligence. As such, I am inclined to allow the application, subject to costs. I proceed to pass the following order:

ORDER

1. The application is allowed.
2. Delay in filing first appeal is hereby condoned, subject to costs of Rs.5000/-, to be deposited in the Government Pleaders Library, Nagpur within three weeks from today.
3. After amount so deposited, Registry is directed to register first appeal.

Application stands disposed of.