

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

CIVIL APPLICATION (CAF) NO. 461/2023 IN
FIRST APPEAL STAMP NO. 3723/2021

The Executive Engineer, Bembala Canal Division, Yavatmal Vs Shri Kiran Chandrakant Raut And Others

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

Court's or Judge's Order

Mr Parihar Advocate h/f Mr T.M. Zaheer, Advocate for the appellant.
Mr S.V. Ingole, Advocate for the respondent No.1/applicant.
Ms Udeshi, AGP for the respondent Nos. 2 and 3.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 21/02/2023.

1. By this application, applicant/respondent No.1 is seeking permission to withdraw the compensation amount along with accrued interest which is deposited by the appellant.
2. As per the reasons mentioned in the application, the land of the respondent No.1 is acquired by the appellant and now respondent No.1 is not having any source of income therefore, he is in need of money.
3. The said application is opposed by the appellant on the ground that, the award is challenged as the amount of compensation awarded is excessive and exorbitant one.
4. Heard both the sides. Perused the application.
5. In view of the reasons mentioned in the application and the objection raised by the appellant, it will be appropriate to permit the respondent No.1 to withdraw 50% of the compensation amount on usual undertaking.

6. The respondent No.1 is permitted to withdraw the 50% compensation amount along with its accrued interest on furnishing usual undertaking.

7. In view of that, civil application No. 461/2023 is allowed and disposed of.

Civil application No. 1740/2021

By this application, the appellant is seeking condonation of delay of 188 days which is caused in preferring the appeal.

2. As per the contention of the appellant that appellant has preferred this appeal against the judgment and award passed by the 3rd Joint Civil Judge, Senior Division, Yavatmal. However, delay of 188 days is caused in preferring the appeal.

3. As per contention of the appellant, the impugned judgment was passed on 18/02/2020, thereafter there was Covid-19 Pandemic situation and Lockdown was declared. Therefore, the appellant could not approached to the Court to collect the certified copies and thereafter limitation period was extended, in view of the judgment of the Hon'ble Supreme Court of India. After pandemic period is over, this appeal is filed by the appellant. In fact, there is no delay in filing the appeal. However, considering the reasons mentioned in the application, the reasonable and justifiable caused is for the delay and delay is not intentional one.

4. Learned advocate for the respondent No.1 Mr S.V. Ingole objected the application, on the ground that delay is not properly explained.

5. Learned AGP has no objection for condonation of delay.
6. Heard both the sides. Perused the application.
7. Admittedly, there was a Covid Pandemic situation from March 2020 to August-2021. The reasons mentioned in the application appears to be just and reasonable one. Moreover, the appellant has to obtain the necessary approvals from their superiors before filing of the appeal. Considering the same delay is not intentional one there is just and reasonable cause mentioned for condonation of delay. In view of that application is allowed, delay of 188 days is condoned.

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Appeal be registered.

Heard.

Admit

Call for record and proceedings.

Appellant to file private paper book within a period of eight weeks after receipt of record and proceedings.

Appeal be placed before this Court after filing of private paper-book and its verification.

JUDGE