

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

CIVIL APPLICATION (CAF) NO.464 OF 2022
IN
FIRST APPEAL STAMP NO.6231 OF 2021

Vidarbha Irrigation Development Corporation through its Executive Engineer,
Yavatmal and another

Vs.

Hemkiran Marotrao Lokhande and others

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

Court's or Judge's orders

Ms. Mallika Babhulkar, Advocate h/f Mr. M. A. Kadu, Advocate for appellants.
Mr. A. P. Khadatkar, Advocate for respondent No.1.
Ms. T. Udeshi, AGP for respondent Nos.2 and 3.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 29/03/2023

1. Present application is for seeking stay to the implementation, effect and execution of the impugned Judgment and Award dated 3.8.2020 passed by Civil Judge, Senior Division, Yavatmal in Land Acquisition Case No.375 of 2016.

2. Learned Advocate Ms. Babhulkar holding for learned Advocate Mr. Kadu for the appellants submitted that the appellants have already deposited the entire amount of compensation along with accrued interest. In view of the statement made, the implementation, effect, operation and execution of the impugned Judgment and Award dated 3.8.2020 passed by Civil Judge, Senior Division, Yavatmal in Land Acquisition Case No.375 of 2016, be stayed till final disposal of the appeal.

3. Civil Application is disposed of.

Civil Application (CAF) No.463 of 2022

1. The present application is for condonation of delay of 180 days which is caused in preferring the appeal against the Judgment and Award dated 3.8.2020 in Land Acquisition Case No.375/2016 passed by the Civil Judge, Senior Division, Yavatmal.

2. As per contention of the appellants, the appellants which is a statutory body who have to obtain the necessary approvals from the superior officials wherein the time was consumed, and therefore, there is delay of 180 days.

3. The said application is opposed by the learned Advocate for the respondent No.1 on the ground that delay is not properly explained. Learned AGP for the respondent Nos.2 and 3 has no objection for the same.

4. In view of the reasons mentioned in the application and considering that appellants which are the statutory body have to obtain the necessary approvals as well as opinion from the superior officials. Considering the reasons mentioned in the application, delay of 180 days is condoned.

5. Civil Application is disposed of.

6. Appeal be registered.

FIRST APPEAL STAMP NO.6231 OF 2021

1. Heard.
2. **Admit.**
3. Learned Advocate Mr. A. P. Khadatkar, waives notice for respondent No.1.
4. Learned AGP Ms. T. Udeshi, waives notice for respondent Nos.2 and 3.
5. Call for record and proceedings.
6. Appellants to file paper book within ten weeks, after receipt of the record and proceedings.
7. Appeal be placed after filing of the paper book, its verification, as per its own turn.

Civil Application (CAF) No.870/2023

1. Present application is for seeking permission for withdrawal of the amount.
2. The appellants have deposited Rs.70,43,691/- towards the compensation. As per the contention of the respondent No.1, he is in dire need of money as he has to undergo the surgery, and therefore he be permitted to withdraw the entire compensation amount.
3. The said application is strongly opposed by the learned Advocate Ms. Babhulkar holding for learned Advocate Mr. Kadu for the appellants on the ground that appellants have challenged the Judgement and Award as amount of compensation awarded is excessive and exorbitant one. Learned Advocate for the respondent

No.1 further submitted that the respondent No.1 has already withdrawn the amount of Rs.27,06,510/-. Learned Advocate further submitted that in addition to that the respondent No.1 can be permitted to withdraw 20% of the amount.

4. In view of the reasons mentioned in the application and considering that substantial amount is already withdrawn by the respondent No.1, he can be permitted to withdraw additional 20% of the amount of compensation on usual undertaking.

5. Thus, respondent No.1 is permitted to withdraw 20% of the amount of compensation along with accrued interest on due identification and verification.

6. Civil Application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate