

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

CIVIL APPLICATION (F) NO.1131 OF 2023

IN
FIRST APPEAL NO.354 OF 2017

[Superintend Engineer and Anr. **..V/s..** Sunil Ramdas Chaudhari and Anr.]

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

Court's or Judge's order

Mr K. D. Kadasne, Advocate for Applicants/Appellants.
Mr R. P. Masurkar, Advocate for Respondent No.1 (Cross-Objector)
Mr M. A. Kadu, AGP for Respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 18th APRIL, 2023.

1. Present application is by the applicants/appellants for condonation of delay of 2006 days, which is caused in bringing the legal representatives of respondent no.1 on record.

2. As per the contention of the appellants, the respondent No.1 Sunil Ramdas Chaudhari died on 18.10.2015. The death certificate of respondent No.1 is already placed on record, however, the appellants were not aware about the death of respondent No.1. Recently, they got knowledge about the death of respondent No.1 and filed delay condonation application. Learned Advocate submitted that there is just and reasonable cause for condonation of delay, hence, delay be condoned.

3. Learned Advocate Mr Masurkar has no objection for condonation of delay. Learned Assistant Government Pleader has also not raised any objection.

4. In view of the reasons mentioned in the application, the application is allowed and delay of 2006 days is condoned.

5. The civil application is disposed of.

CIVIL APPLICATION (F) NO.1130 OF 2023

6. In view of the reasons mentioned in the application, the application is allowed and the abatement order is set aside.

7. The civil application is disposed of.

CIVIL APPLICATION (F) NO.1132 OF 2023

8. This application is for bringing the legal representatives of respondent No.1 on record.

9. Learned Advocate Mr Masurkar waives notice for proposed legal heirs.

10. In view of the reasons mentioned in the application, the application is allowed and the proposed legal heirs of respondent No.1 being necessary parties are permitted to bring on record.

11. The appellants to carry out the necessary amendment within stipulated period.

12. Civil application is disposed of.

13. Appeal be placed before the Court after vacation.

CIVIL APPLICATION (O) (ST) NO.15458 OF 2022.

14. Heard.

15. Present application is for condonation of delay of 1337 days, which is caused in preferring the cross-objection.

16. As per the contention of the cross-objectors, the cross objectors are poor agriculturist and also illiterate persons not aware of the legal intricacies, and therefore, they could not get the knowledge regarding filing of the cross-objection. In fact, the

Reference Court has awarded the inadequate compensation, and therefore, they ought to have filed the cross-objection within time. However, due to the inadequate knowledge about the legal proceedings and limitation, they could not file the cross-objection.

17. The said application is strongly opposed by Mr Kadasne, learned Advocate raising that the delay is not properly explained, and hence, delay deserves to be rejected. Learned AGP Mr Kadu reiterated the same contention and prayed for rejection of the application.

18. Heard both the sides. Perused the application. Considering the reasons mentioned in the application and it is well settled principle that while considering the delay condonation application, the liberal approach is to be taken to do the substantial justice. However, considering the inordinate delay, the delay is to be condoned subject to the waiver of the interest, if cross-objectors succeed in enhancement of the compensation.

19. In view of the above, the application is allowed and delay of 1337 days is condoned. Cross-objection be registered and numbered accordingly.

20. Civil application is disposed of.

CROSS OBJECTION (XOB) (ST) NO.15457 OF 2022

21. Heard.

22. **Admit.**

23. Learned AGP waives notice for respondent Nos.1 and 3 and learned Advocate Mr Kadasne waives notice for respondent

No.2.

24. Stand over after vacation.

JUDGE