

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

CIVIL APPLICATION (CAF) NO. 1407 OF 2023
AND
CIVIL APPLICATION (CAF) NO. 1408 OF 2023
IN
FIRST APPEAL NO. 655 OF 2015

SHANTARAM GULABRAO DESHMUKH

...VERSUS...

THE EXECUTIVE ENGINEER, REPRESENTING V.I.D.C., BEMBLA PROJECT DIVISION, YAVATMAL & ORS.

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

Court's or Judge's order

Ms. Sheela S. Nemade, Advocate for LR's. of applicant/appellant.
Shri Vinay Rathi, Advocate h/f. Shri P. B. Patil, Advocate for respondent no. 1.
Ms. T.H.Udeshi, AGP for respondent nos. 2 and 3.

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

DATE : 06th JUNE, 2023

The present application is filed for condonation of delay in filing application for setting aside abatement and bringing legal heirs of deceased sole appellant on record. There is delay of 784 days.

2. The present applicants i.e. legal heirs being married daughters of sole appellant and residing at their respective matrimonial places were not aware about pendency of First Appeal. They were unaware about execution and registration of Will Deed duly executed by deceased sole appellant in their favour. It is further contended that even the deceased sole appellant did not disclose the material facts to the present applicants, therefore, necessary steps could not be taken by them.

3. Though the application is opposed by learned counsel for the respondents, I am satisfied with the reasons stated in the application that there was no intentional or deliberate delay in filing the present application. The same is satisfactorily explained. As such, the present application is allowed.

4. Delay in filing application for setting aside abatement and bringing legal heirs of deceased sole appellant on record is hereby condoned.

5. Accordingly, the application stands disposed of.

CIVIL APPLICATION (CAF) NO. 1408 OF 2023

The present application is filed for setting aside abatement and bringing the legal heirs of deceased sole appellant on record.

2. The application is supported by affidavit and the death certificate of sole appellant is placed on record along with the present application. As the right to sue survives, the application is allowed.

3. The abatement is set aside and permission is granted to the applicants i.e. the proposed legal heirs of sole appellant to substitute their names in place of deceased sole appellant on record.

4. Necessary amendment to be carried out within two weeks.

5. Accordingly, the application stands disposed of.

(Smt. M.S. Jawalkar, J.)