

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

CIVIL APPLICATION (CAF) NO. 4100 OF 2019

IN

FIRST APPEAL (ST.) NO. 8210 OF 2019

Prakashchand Hukumichand Jain (Nahar) Since Dead through L.Rs.

Vijaya wd/o Prakashchand Jain and others

..VS..

The State of Maharashtra and Another

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

Court's or Judge's orders

Mr. Rohit Masurkar, Advocate for applicants.

Ms. Trupti Udeshi, A.G.P for respondent No. 1.

Mr. P.B. Patil, Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : APRIL 13, 2023

Heard.

2. The Present application is for condonation of delay on the ground that the applicants are the poor villagers, they have challenged the judgment and award passed by the reference Court in L.A.C. No. 97/2004 along with the connected matters.

3. As per contention of the applicants that they have no knowledge of legal intricacies and limitation for filing of the First Appeal. Moreover, they could not arrange the amount as the compensation amount was not paid to them after passing of the award and therefore, the delay of 1982 days is caused in preferring the appeal.

4. Said application is strongly opposed by learned Advocate Shri P.B. Patil for respondent No.2 and learned

A.G.P for respondent No.1 on the ground that though the application is filed on 06.02.2019, it was not circulated and notices were issued on 14.02.2020. The respondent No.2 has received the notice on 15.02.2021. The respondent No.2 has to pay the interest @ 15% if the applicants/appellants succeed in the appeal. The applicants were not at all diligent in circulating the matter. They are not diligent in filing the appeal also therefore, the delay application deserves to be rejected. Alternatively, it is submitted that if this Court allows the said application, then interest to be waived for the delayed period till passing of this order.

5. Heard learned Advocate Mr. Masurkar for the applicants. He reiterated the contentions and submitted that there is just and reasonable cause for condonation of delay.

6. Learned Advocate Mr. Patil reiterated the contention and submitted that considering the respondent has to pay the huge interest on the compensation amount, delay application deserves to be rejected as the applicants were not diligent in preferring the appeal as well as in circulating the application.

7. After hearing both the sides and after perusal the application, admittedly the application is filed on 06.02.2019 and firstly it was placed on 17.01.2020 i.e. approximately after one year. Though learned Advocate Mr. Masurkar submitted that he requested for circulation the matter to the Registry on various occasions, but it

was not placed before the Court. However, this contention is not acceptable as he never made a request to the Court for circulation of the matter.

8. Considering that the respondent No.2 has to pay huge interest though there are reasonable and justifiable reasons for condonation of delay, the applicants would not be entitled for the interest for delayed period as well as for the period till passing of this order.

9. In view of that the application deserves to be allowed and it is allowed subject to the waiver of the interest from 05.08.2013 till 13.04.2023.

10. The Civil Application 4100 of 2019 is disposed of.

11. Appeal be registered.

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ADMIT.

2. Learned A.G.P Ms. Trupti Udeshi waives notice for respondent No.1 and learned Advocate Mr. P.B. Patil waives notice for respondent No.2.

3. Call for record and proceeding.

4. The appellants to file paper book within ten weeks after receipt of the record and proceeding.

5. The Appeal be placed before the Court after filing of paper book and its verification, as per its own turn.

6. Learned Advocate Mr. Rohit Masurkar submitted that his name is not appeared in the cause list.

Office to show his name in the cause list.

(URMILA JOSHI-PHALKE, J.)

Kirtak