

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

CIVIL APPLICATION (CAF) NO.4483/2019 IN
FIRST APPEAL ST. NO. 12265/2019

Chief Executive Engineer, Madhyam Prakalpa Vibhag, Yavatmal

Vs

Sundarabai Chandrabhan Chavhan And Others

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

Court's or Judge's Order

Ms I.P. Khisti, advocate for the appellant/applicant.

Mr S.V. Ingole, advocate for the respondent Nos. 1 to 7.

Mr M.A. Kadu, AGP for the respondent Nos. 8 and 9.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 09/03/2023.

1. Heard.

2. By this application, the appellant is seeking stay to the effect, operation and execution of the impugned judgment and award passed by the Civil Judge, Senior Division, Darwha in Land Acquisition Case No. 50/2010 dated 10/03/2017.

3. Ms I.P. Kshiti, learned advocate for the appellant submitted that the amount is already deposited. In view of that the effect, operation and execution of the impugned judgment and award passed by the learned Civil Judge, Senior Division, Darwha in LAC No. 50/2010, dated 10/03/2017 is stayed till final disposal of the appeal.

Civil application No. 4483/2019 is disposed of.

Civil Application No. 845/2022.

1. By this application, the original claimant/respondent Nos. 1 to 7 are seeking permission to withdraw the entire amount compensation deposited by the appellant/insurance company.

2. As per the contention of the claimants their land gut No. 15/1B admeasuring 3H 24R situated at Shindi, Tq. Darwha, District Yavatmal is already acquired by the Government. Now, they have no source of income. The learned reference Court has awarded the compensation amount @ Rs.2,00,000/- per hectare. The amount of compensation has already deposited by appellant.

3. Mr S.V. Ingole, learned advocate for the respondent Nos. 1 to 7 submitted that in connected matter, this Court has already permitted the original claimants to withdraw the entire amount of compensation. He placed on record, copy of said order which shows that this Court has permitted the claimants to withdraw 50% amount of compensation upon furnishing an undertaking that, if any, adverse order is passed, the applicant no.1 shall be directed and remaining 50% of the amount of compensation is permitted to be withdrawn on furnishing solvent surety and security to that extent.

4. In view of that, respondents are permitted to withdraw the 50% amount of compensation on furnishing solvent surety/security and 50% amount of compensation on

furnishing usual undertaking to the satisfaction of the Registrar (J).

5. The respondent No.5 is the power of attorney for all the respondent Nos. 1 to 4, 6 and 7. The respondent No.5 is permitted to withdraw the amount on behalf of all the respondents.

6. Respondent No.5 shall file an affidavit that respective shares of the respondent Nos. 1 to 4, 6 and 7 are disbursed to them.

Civil Application is disposed of.

Civil Application No.4482/2019

1. The present application is filed by the appellant for condonation of delay which is caused in preferring the appeal against the judgment and award passed by the Civil Judge, Senior Division, Darwha in Land Acquisition Case No. 50/2010.

2. As per the contention of the appellant that impugned judgment was pronounced on 10/03/2017. Learned advocate applied for the judgment and award on 05/07/2017 and it was received on 14/07/2017. Thereafter, the Superintendent Engineer opined to file the appeal. However, the appellant has to obtain the necessary provision from the higher officials, wherein the time was consumed and therefore, delay of 548 days is caused in preferring the appeal. It is submitted that

the delay is not intentional one. There is sufficient and reasonable cost for condonation of delay.

3. Mr S.V. Ingole, learned advocate appearing for the respondent Nos. 1 to 7 raised objection on the ground that the delay is not properly explained.

4. Mr M.A. Kadu, learned AGP has no objection for allowing the application.

5. Heard both the sides. Perused the application.

6. In view of the reason mentioned in the application and considering that the appellant is the Government Authority shall have obtained the necessary approvals before preferring the appeal. Considering the reasons, it appears that just and reasonable cause is made out for condonation of delay. In view of that, delay of 548 days is condoned.

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Appeal be registered.

2. **Admit.**

3. Mr S.V. Ingole, learned advocate waives service on behalf of respondent Nos. 1 to 7.

4. Mr M.A. Kadu, learned AGP waives service on behalf of respondent Nos. 8 and 9.

5. Call record and proceedings.

6. Appellant to file private paper-book within a period of eight weeks.

7. Place the matter for final hearing after filing of private paper-book and its verification, as per its turn.

JUDGE