



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

CIVIL APPLICATION (CAF) NO. 2742 OF 2023

IN

FIRST APPEAL (ST) NO. 14763 OF 2021

Vidarbha Irrigation Development Corporation, Amravati and Another
VS.

Shravan S/o. Sakharam Bavankar (deceased) through LR's and others.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr M. A. Kadu, Advocate the appellants
Mr Swapnil Shingane, Advocate for respondent Nos. 1 to 8
Ms Trupti Udeshi, AGP for respondent Nos. 9 and 10/State

CORAM : G.A. SANAP, J.

DATE : OCTOBER 6, 2023.

Heard.

2. This is an application made by the applicants, who are the legal heirs of deceased claimants/respondent Nos. 1 and 4 for bringing on record them as legal heirs of respondent Nos.1 and 4. According to applicants, respondent No.1-Madhukar Shravan Bawankar died on 03.07.2016 and respondent No.4- Sudam Shravan Bawankar died on 03.06.2022. It is stated that applicant Nos. 1 to 10 are the legal heirs of deceased respondent No.1 and applicant Nos. 11 to 14 are the legal heirs of deceased respondent No. 4. In this application, the prayer is made to direct the appellants to

bring the applicants as legal heirs of respondent Nos. 1 and 4 respectively.

3. Learned Advocate for the appellants submits that Court may pass an appropriate order.

4. In view of the facts and circumstance, the application is allowed.

5. The applicant Nos. 1 to 10 are allowed to be substituted in place of deceased respondent No.1 as respondent Nos. 1(A) to 1(J) and applicant Nos. 11 to 14 are allowed to be substituted in place of deceased respondent No. 4 as respondent Nos. 4(A) to 4(D).

6. Learned Advocate for the appellants, shall carry out the necessary correction/ amendment in the appeal memo forthwith.

7. The civil application stands **disposed of**, accordingly.

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8. Heard learned advocate for the appellant and learned AGP for the State. Heard learned Advocate Mr S. S. Shingane for respondent Nos. 1(A) to 1(J), 2, 3, 4(A) to 4(D) and respondent No. 5 to 8.

9. This is an application for condonation of 806 days delay caused in filing appeal against the impugned judgment and award dated 26.10.2017.

10. The reasons for delay have been set out in the application. It is stated that due to administrative procedural delay, the appeal could not be filed within time. It is further stated that there was lack of communication between the officials. The opinion of the superiors was required for filing the appeal. By the time the opinion was received, the period of limitation was over.

11. Learned AGP for the State submits that Court may pass an appropriate order.

12. In view of the reasons stated in the application, I am of the view that a case is made out to condone the delay subject to certain conditions. The appellant No.1 is acquiring body. In my view, in such cases, saddling the public undertaking only with cost, may not serve larger public interest. In such cases, other options need to be explored and made available to the party. Issuing direction to the public undertaking or other Government bodies to plant particular number of trees in each case, could be the best available option. Plantation of trees would be beneficial to one and all. In my view, therefore, by way of a condition for condonation of delay, the appellants can be given an option. Accordingly,

in this case, delay is condoned. It is subject to condition that the appellants shall plant twenty-five trees or pay cost of Rs.10,000/- (Rupees Ten Thousand only) and deposit the said cost in this Court. Learned advocate for the appellants shall file a pursis and exercise the option.

13. As far as the mechanism for implementation of this direction is concerned, the same shall be identical to the one set out in para Nos. 7 and 9 of the order dated 25.09.2023 passed in CAF No. 130 of 2020. Para Nos. 7 and 9 are extracted below :

“7. Concerned acquiring body, Government office or the appellant, as and when directed to plant trees, shall comply the said order and make a report of the same to the District Forest Officer of the concerned district. The District Forest Officer of the concerned district from Vidarbha Region, on receipt of the report, as above, shall depute a responsible officer to the spot for inspection. The District Forest Officer shall maintain record of the same for two years. The District Forest Officer of the concerned district, after inspection, shall forward the compliance report to the Secretary, High Court Legal Services Sub-Committee, Nagpur. The Secretary of High Court Legal Services Sub-Committee, Nagpur shall maintain case-wise record and as and when required, shall place the same before this Court. The Secretary, High Court Legal Services Sub-Committee, Nagpur can take help of the Secretary of the District Legal Aid Services Authority of the concerned district from Vidarbha Region for the purpose of verification and report.

9. The appellant/authority concerned on exercising option of plantation of trees, will be responsible to maintain the planted trees for two years from the date of plantation. The appellant/authority, in all such cases, shall first utilize the land available with it. In case, the land is not available, the concerned appellant/body/authority shall make request to the in-charge of the Social Forestry Department of the concerned district as well as to the Collector or the Tahsildar of the concerned district/taluka for making the Government land available for plantation. The officer of Social Forestry Department/Collector/Tahsildar shall do the needful as and when such request is received."

14. The concerned party or authority, on exercise of option, shall comply the order as early as possible and in any case within one month. The Registry shall register the appeal on filing pursis by the appellant exercising option.

15. In case the appellants exercise the option of plantation of trees, copy of this order be forwarded to the Secretary, High Court Legal Services Sub-Committee, Nagpur, the District Forest Officer, Amravati for information.

16. The application stand **disposed of**, accordingly.

17. Appeal be registered.

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18. Heard.

19. **ADMIT.**

20. Learned Advocate Mr S. S. Shingane waives service of notice on behalf of respondent Nos. 1 (A) to 1 (J), 2, 3, 4(A) to 4(D) and respondent No. 5 to 8.

21. Learned AGP waives service of notice on behalf of respondent Nos. 9 and 10.

22. Call for record and proceedings.

23. Paper book be filed within twelve weeks from the date of receipt of record and proceedings.

(G. A. SANAP, J.)

Namrata