

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

CAF NO.285/2022 IN FA ST.NO.17315/2021

**Maharashtra Industrial Development Corporation, thr.its Executive Engineer,
MIDC Area Yavatmal, thr.CEO Amravati**

..VS..

Kalawatibai wd/o Anandrao Yadav and anr

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

Court's or Judge's Order

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Shri J.B.Kasat, Counsel for the Applicant.
Shri Abhay Sambre, Counsel for NA No.1.
Shri M.A.Kadu, AGP for NA Nos.2 & 3.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 02/03/2023

1. By preferring this application, the applicant is seeking condonation of delay of 1418 days caused in preferring the appeal.

2. As per contention of the applicant, the applicant is acquiring body. The non-applicant No.1/claimant had instituted LAC No.212/1999 before learned Civil Judge Senior Division at Yavatmal. Only the applicant was added as party non-applicant No.3. It is contention of the applicant that notice was not properly served. However, the Trial Court had considered it as proper service and the matter was proceeded *ex parte*. Further ground raised by the applicant is the address for service of the notice of execution was stated to be of Yavatmal and as per Roznama of the Special Execution No.39/2017 dated 6.2.2019 which records service of notice upon the applicant. However, the office of the Executive Engineer as well as the Regional Office is at Amravati and, therefore, both the offices were not aware about the judgment and award as well as the Special Execution No.39/2017 which is filed for recovery of amount. As per contention of the claimant, due to Covid-2019 they could not seek guidance from higher officials which is one of reasons for filing of application for delay. It is submitted that there is sufficient reasons for condonation of delay and the delay is not intentional one and hence, the application be allowed and the delay be condoned.

3. The application is opposed by learned counsel for the claimant on the ground that service of notice was duly served on the applicant as well as execution notice was also served on the applicant. The applicant is very well aware about passing the award. However, as the appeal is filed belated, there is no sufficient and reasonable cause for condonation of delay. Hence, the application be rejected.

4. Heard learned counsel Shri J.B.Kasat for the applicant and learned counsel Shri Abhay Sambre for non-applicant No.1.

5. Learned counsel Shri J.B.Kasat for the applicant submits that he has explained entire circumstances in the additional affidavit. He submitted that during the period from 12.1.2016 to 16.1.2022 the Regional Officer in the MIDC Region of Amravati which includes the Akola MIDC area was Sau.K.K.Wasnik for the period from 12.2016 to 31.8.2017 and said Wasnik was responsible for entire affairs which happened in the case. She was discharging her duties and, therefore, necessary action is initialed against her. He further submitted that the Regional Officer Shri Sangitrao was given additional charge of Regional Officer, Amravati during the period from 31.8.2017 to 9.7.2018 and subsequently Shri S.B.Fuke had taken the additional charge as Regional Officer, Amravati MIDC for the period from 9.7.2018 to 27.9.2019 and thereafter Shri R.K.Guthale worked as Regional Officer, MIDC Amravati from 27.9.2019 to 16.1.2022. Though the dealing clerk of court matter Shri P.P.Kale w.e.f.27.7.2019 was duty bound to look after the court matters particularly when the judgment and award in some other reference proceedings under the same notification and award was subject to filing of appeal before this Court and therefore, the said dealing clerk as well as the Regional Officer Shri Fuke and Shri Guthale during the period from 9.7.2018 to 16.1.2022 also appears to have not taken appropriate steps for filing appeal.

6. The respondent No.1 claimant has also filed additional affidavit and supported her contention that there is no justifiable and sufficient reason for condonation of delay and hence the application

deserves to be rejected

7. Heard and perused the application.

8. Sum and substance of learned counsel for the applicant is that it is employees of the applicant who had not discharged duties diligently and, therefore, the applicant could not get knowledge of pendency of the land reference and, therefore, the applicant could not be held responsible for the said delay. Moreover, the applicant has to take necessary approvals from the highest officials before filing of the appeal wherein the time was consumed. The delay caused is not intentional one and the same be condoned.

9. Learned counsel Shri Abhay Sambre for non-applicant No.1 submits that the notice was duly served. However, it was the applicant who had not contested the reference and, therefore, it is decided against the applicant. There is no sufficient and justifiable reason for condonation of delay.

10. The parties have relied upon various documents. It is apparent that lapse is on the part of employees and, therefore, the delay is caused. It is well settled that while considering applications especially in the land acquisition cases whether it is on the part of claimants or acquiring body the Court has to consider aspect that claimants are claiming compensation under beneficial legislation. Whereas, considering the appeal by the statutory body, the Court has to take into consideration public money is involved and, therefore, liberal approach is to be appreciated to do the substantial justice.

11. In view of reasons above as well as in connected matters judgment and award passed by the reference court is under challenge, the present application deserves to be allowed. The delay is condoned. Office to register the first appeal. Record and proceedings be called for.

12. The application is **disposed** of.

CAF No.2283/2022

1. By this application, respondent No.1/claimant seeks

withdrawal of the amount.

2. The respondent No.1/claimant as well as the applicant shall file calculation sheet within a period of one week.

3. Stand over to 8.3.2023.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!

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