

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

CIVIL APPLICATION (F) NO.1321 OF 2017 IN
FIRST APPEAL (ST) NO.21132 OF 2016

[Vidarbha Irrigation Development Corporation ..V/s.. Wasudeo Mahadeo
 Bhoyar (Dead) thr LR's and Ors.]

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

Court's or Judge's order

Mr V. Dahat, Advocate for Applicant/Appellant.
 Mr A. B. Nakshane, Advocate for LR's of Respondent No.1.
 Ms T. H. Udeshi, AGP for Respondent Nos.2 and 3.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 10th APRIL, 2023.

1. This is an application for grant of leave to file the appeal.

2. Leave is granted. Civil application is disposed of.

CIVIL APPLICATION (F) NO.3993 OF 2018.

3. This is an application for seeking condonation of delay of 515 days, which is caused in preferring the appeal.

4. The appeal is preferred by the applicant - VIDC on the ground that after the judgment and award passed by the Reference Court, they have communicated with their Higher Officials. However, they could not get the approval from the Higher Officials within time, and therefore, the delay of 515 days caused in preferring the appeal.

5. Mr Nakshane, learned Advocate appears for the legal heirs of respondent No.1 as well as learned Assistant Government Pleader for respondent Nos.2 and 3 have no objection for condoning the delay.

6. In view of the reasons mentioned in the application and in view of the well settled law that liberal approach is to be taken

while considering the delay application to do substantial justice, the delay of 515 days is condoned. Appeal be registered and numbered accordingly.

FIRST APPEAL (ST) NO.21132 OF 2016.

7. Heard.

8. The matter is taken up for final hearing with the consent of the learned Advocates appearing for the parties.

9. It is submitted by the learned Advocates appearing for the parties that in view of the judgment passed in ***First Appeal St. No.189 of 2018 (VIDC and another ..V/s.. Vasant Nanaji Patre and others)*** dated 19.12.2018 arising from the village Pahur, Taluka Babhulgaon, District Yavatmal, the present appeal can be disposed of.

10. In First Appeal St. No.189 of 2018, this Court has held that the amount of Rs.750/- per square meter for an open plot from village Pahur, Taluka Babhulgaon, District Yavatmal, would be fair compensation and maintained the compensation granted by the Reference Court for construction. The Notification under Section 4 of the Land Acquisition Act, 1894 in this appeal is dated 11.05.2000, which was the same Notification in the appeal referred above.

11. Reference Court has awarded the compensation towards the construction at the rate of Rs.1,560/- per square meter is to be maintained, however, compensation awarded for the open plot is at the rate of Rs.900/- per square meter, which is excessive and exorbitant one.

12. In view of the above judgment in First Appeal St. No.189 of 2018, the amount of Rs.750/- per square meter for an open plot is the just and appropriate compensation. Hence, for the reasons stated in the First Appeal St. No.189 of 2018 (VIDC and another ..V/s.. Vasant Nanaji Patre and others) dated 19.12.2018, this appeal is partly allowed as under :

- i) The judgment of the Reference Court in L.A.C. No.263 of 2006 dated 02.02.2015 is partly modified.
- iii) The legal heirs of respondent No.1 are held entitled to receive an amount of Rs.750/- per square meter for an open Plot No.46 admeasuring 79.40 square meter. They are also entitled to receive an amount at the rate of Rs.1,560/- per square meter for constructed portion admeasuring 49.61 square meter.
- iv) Other directions in the award are confirmed.
- v) The legal heirs of respondent No.1 - claimants are at liberty to withdraw the amount of compensation alongwith accrued interest.
- vi) The balance amount, if any, be refunded to the appellant with accrued interest.

13. The first appeal is partly allowed in aforesaid terms and disposed of with no order as to costs.

JUDGE