

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

CIVIL APPLICATION NO.870 OF 2018

IN

FIRST APPEAL (ST.) NO.23283 OF 2014

(M.I.D.C. Vs. Smt. Shantabai wd/o Dadarao Ithape and ors.)

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

Court's or Judge's Order

Shri P. Sagdeo, Advocate h/f Shri M.M. Agnihotri, Advocate for the appellant.
Shri S.A. Puranik, Advocate for respondent Nos.3 to 9.
Ms Udeshi, AGP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- MARCH 08, 2023.

Heard.

2. This application is filed for condonation of delay under Section 5 of the Limitation Act, 1963.

3. The delay of 1259 days is caused in preferring the appeal.

4. As per the contention of the appellant, the appellant-MIDC is the Corporation constituted under the provisions of Maharashtra Industrial Development Act, 1961.

5. The appellant preferred this appeal against the judgment and award passed by the 2nd Joint Civil Judge, Senior Division, Yavatmal in LAC No.261/2003.

6. As per the contention of the appellant in the month of July, 2014, learned Counsel office Clerk was on leave, and therefore, the Juniors were looking after the

matter at that point it revealed that certain matters are dismissed for want of removal of office objections and for want of payment of bhatta.

7. During this period itself concerned officers of M.I.D.C. also approached to the Counsel seeking status in various matters as per their regular practice. When the clerk rejoined his duty he was enquired and it revealed that inadvertently he had not filed the application though it was ready. Therefore, delay of 1259 days is caused in preferring the appeal. It is contended that the Corporation is engaged in discharging public duties, therefore, the employees who are the public servants are always relied upon the Counsel.

8. Thus, there are reasonable and justifiable cause for condonation of delay as inadvertently the appeal remains to be filed though it was ready. The amount of compensation which the appellant has to prove is a public money and the award passed by the Land Reference Court is exorbitant one, therefore, the appellant be permitted to litigate the cause on merits.

9. Said application is strongly opposed by Shri S.A. Puranik, learned Counsel for respondent Nos.1 to 9 on the ground that the delay is not properly explained. Delay is intentional one and hence, delay application deserves to be rejected.

10. Heard both the sides and perused the application. It is apparent that the appellant is a

Corporation constituted under the Maharashtra Industrial Development Act, 1961. It is established for the organisation of the industries in the industrial areas the money involved is a public money. It is well settled that while considering the delay application, liberal approach is to be taken to do the substantial justice.

11. In view of the reasons mentioned in the application, delay appears to be just and reasonable one hence, delay application deserves to be allowed.

12. Civil application is disposed of.

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Appeal be registered.

2. Call for R. & P.

3. **ADMIT.**

4. The appellant to file private paper book within eight weeks after receipt of R. & P.

5. Place the matter for final hearing after paper book is filed and its verification as per its turn.

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Heard.

2. On depositing the entire amount of compensation along with accrued interest including the statutory benefits within six weeks, the stay is granted to the implementation, operation and execution of the judgment and award passed by the Civil Judge, Senior

Division, Yavatmal in LAC No.261/2003. On failure to deposit the same, the stay granted will be vacated automatically without further reference to the Court.

(URMILA JOSHI-PHALKE, J.)

**Divya*