

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

INTERIM APPLICATION NO. 17677 OF 2022

IN

FIRST APPEAL (ST) NO. 20441 OF 2022

Maharashtra Krishna Valley Development
Corporation Through Executive Engineer

... Appellant/Applicant

Vs.

Maruti Balu Pavagi And Ors.

... Respondents

Adv. Ashish Gabhale a/w Adv. Swaraj Subhash Patil, i/by Jay & Co., for the
Appellant/Applicant.

Adv. Amrita Kharkar, i/by P. H. Potnis, for the Respondent.

CORAM : KISHORE C. SANT, J.

DATE : 15th March, 2024

PC.:-

1. Heard. This Application is filed for condonation of delay caused in filing the First Appeal. By way of Appeal challenge is to the Judgment and award passed by the Reference Court enhancing the compensation. The impugned Judgment and award is dated 30.06.2016. It is stated that the earlier Advocate was engaged and he was conducting the proceedings of the Reference, stopped working for the Corporation and he did not inform the Applicant about the Judgment and Order. The Corporation came to know about the impugned Judgment only on 29.07.2022 when the execution Court issued warrant of attachment. It is thereafter immediately steps were taken and the appeal is filed. In this process the delay of more than 6 years is caused.

2. This Application is vehemently opposed by the Claimant/ present Respondent Nos. 1 and 2. It is submitted that the Corporation has deliberately not filed the Appeals though the Corporation was having the knowledge. However just to avoid to make payment of compensation and to take defence in the execution no appeal was filed showing the lack of knowledge. The amount for the compensation with interest is now more than Rs. 30 lakhs and the delay therefore may not be condoned.

3. Considering that the Application is filed by the Corporation this court is inclined to allow the Application. However at them same time it needs to be consider that for 6 years the Applicant did not even bother make an inquiry about the status of the Reference proceedings. The Claimants were required to file execution proceedings and it is only on receiving the attachment warrant appeal is filed. Certainly it is negligence on the part of the officers of the corporation.

4. Therefore some costs needs to be awarded to the Claimants. Hence the following order.

5. Application stands allowed and disposed of. Delay is condoned, subject to payment of costs of Rs. 5,000/- to be paid to the Claimants in equal proportion. Subject to deposit of cost in this Court within 8 weeks, office to register the Appeal.

(KISHORE C. SANT, J.)