

Vina Khapde
(P.S.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.8317 OF 2024
IN
ARBITRAL APPEAL (L) NO.3064 OF 2024
WITH
INTERIM APPLICATION NO.8318 OF 2024
IN
ARBITRAL APPEAL (L) NO.3064 OF 2024

Executive Engineer National Highway Authority .. Applicant
Versus
Shankar Nivruti Mahatme and ors. .. Respondents

WITH
INTERIM APPLICATION NO.8309 OF 2024
IN
ARBITRAL APPEAL (L) NO.2278 OF 2024
WITH
INTERIM APPLICATION NO.8312 OF 2024
IN
ARBITRAL APPEAL (L) NO.2278 OF 2024

National Highways Division No.9, Nashik Thr.
Executive Engineer. .. Applicant
Versus
Prabhakar Trimbak Malpahthak
deceased through Lrd. Ashok P. Malpathak and
ors .. Respondents

WITH
INTERIM APPLICATION NO.8400 OF 2024
IN
ARBITRAL APPEAL (L) NO.3766 OF 2024
WITH
INTERIM APPLICATION NO.8399 OF 2024
IN
ARBITRAL APPEAL (L) NO.3766 OF 2024

National Highways Division No.9, Nashik Thr.
Executive Engineer. .. Applicant
Versus
Pandurang Ramkrishna Sonaware GPA Holder
and ors. .. Respondents

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WITH
INTERIM APPLICATION NO.8313 OF 2024
IN
ARBITRAL APPEAL (L) NO.4003 OF 2024
WITH
INTERIM APPLICATION NO.8314 OF 2024
IN
ARBITRAL APPEAL (L) NO.4003 OF 2024

National Highways Division No.9, Nashik Thr.
Executive Engineer. .. Applicant

Versus

Madhav Nivrutti Avhad and ors. .. Respondents

WITH
INTERIM APPLICATION NO.8315 OF 2024
IN
ARBITRAL APPEAL (L) NO.4006 OF 2024
WITH
INTERIM APPLICATION NO.8316 OF 2024
IN
ARBITRAL APPEAL (L) NO.4006 OF 2024

National Highways Division No.9, Nashik Thr.
Executive Engineer. .. Applicant

Versus

Chandrakant Shivram Varandal and ors .. Respondents

WITH
INTERIM APPLICATION NO.8325 OF 2024
IN
ARBITRAL APPEAL (L) NO.4010 OF 2024
WITH
INTERIM APPLICATION NO.8326 OF 2024
IN
ARBITRAL APPEAL (L) NO.4010 OF 2024

National Highways Division No.9, Nashik Thr.
Executive Engineer. .. Applicant

Versus

Nandu Trimbak Kholambe .. Respondent

WITH

INTERIM APPLICATION NO.8319 OF 2024
IN
ARBITRAL APPEAL (L) NO.4204 OF 2024
WITH
INTERIM APPLICATION NO.8320 OF 2024
IN
ARBITRAL APPEAL (L) NO.4204 OF 2024

National Highways Division No.9, Nashik Thr.
Executive Engineer.

.. Applicant

Versus

Kachru Bhivaji Sonawane and anr.

.. Respondents

WITH
INTERIM APPLICATION NO.8332 OF 2024
IN
ARBITRAL APPEAL (L) NO.4217 OF 2024
WITH
INTERIM APPLICATION NO.8333 OF 2024
IN
ARBITRAL APPEAL (L) NO.4217 OF 2024

National Highways Division No.9, Nashik Thr.
Executive Engineer.

.. Applicant

Versus

Sushilabai Murlidhar Pote
since deceased thr. Lrs. Sanjay Murlidhar Pote
and anr.

.. Respondents

WITH
INTERIM APPLICATION NO.8327 OF 2024
IN
ARBITRAL APPEAL (L) NO.4448 OF 2024
WITH
INTERIM APPLICATION NO.8328 OF 2024
IN
ARBITRAL APPEAL (L) NO.4448 OF 2024

National Highways Division No.9, Nashik Thr.
Executive Engineer.

.. Applicant

Versus

Surekha Nivrutti Kedar and ors.

.. Respondents

WITH

INTERIM APPLICATION NO.8321 OF 2024
IN
ARBITRAL APPEAL (L) NO.4451 OF 2024
WITH
INTERIM APPLICATION NO.8322 OF 2024
IN
ARBITRAL APPEAL (L) NO.4451 OF 2024

National Highways Division No.9, Nashik Thr.
Executive Engineer. .. Applicant
Versus
Anil Pandurang Shinde .. Respondent

WITH
INTERIM APPLICATION NO.8357 OF 2024
IN
ARBITRAL APPEAL (L) NO.4785 OF 2024
WITH
INTERIM APPLICATION NO.8358 OF 2024
IN
ARBITRAL APPEAL (L) NO.4785 OF 2024

National Highways Division No.9, Nashik Thr.
Executive Engineer. .. Applicant
Versus
Rajendra Maruti Shirsath and ors. .. Respondents

WITH
INTERIM APPLICATION NO.8323 OF 2024
IN
ARBITRAL APPEAL (L) NO.4795 OF 2024
WITH
INTERIM APPLICATION NO.8324 OF 2024
IN
ARBITRAL APPEAL (L) NO.4795 OF 2024

National Highways Division No.9, Nashik Thr.
Executive Engineer. .. Applicant
Versus
Nitin Maganlal Karnawat and ors. .. Respondents

WITH

INTERIM APPLICATION NO.8355 OF 2024
IN
ARBITRAL APPEAL (L) NO.6693 OF 2024
WITH
INTERIM APPLICATION NO.8356 OF 2024
IN
ARBITRAL APPEAL (L) NO.6693 OF 2024

National Highways Division No.9, Nashik Thr.
Executive Engineer.

.. Applicant

Versus

Shankar Narayan Mahatme and ors.

.. Respondents

WITH
INTERIM APPLICATION NO.8334 OF 2024
IN
ARBITRAL APPEAL (L) NO.6769 OF 2024
WITH
INTERIM APPLICATION NO.8335 OF 2024
IN
ARBITRAL APPEAL (L) NO.6769 OF 2024

National Highways Division No.9, Nashik Thr.
Executive Engineer.

.. Applicant

Versus

Hemantvitthal Waje and anr.

.. Respondents

WITH
INTERIM APPLICATION NO.8329 OF 2024
IN
ARBITRAL APPEAL (L) NO.9497 OF 2024
WITH
INTERIM APPLICATION NO.8331 OF 2024
IN
ARBITRAL APPEAL (L) NO.9497 OF 2024

National Highways Division No.9, Nashik Thr.
Executive Engineer.

.. Applicant

Versus

Kamalabai Nivrutti Zagade and anr.

.. Respondents

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- Mr. Amrut Joshi a/w Ms. Kajal Gupta, Mr. Yazad Udwadia for the Applicants.
- Mr. Pramod Joshi a/w Mr. Pratik Rahade, Ms. Rukmini Khairnar for Respondent In IA No.8315/2024, IA No. 8309/2024, IA No.8351/2024.
- Mr. Sachin S. Gire for the Respondent Nos. 1 and 2 in ARA(L) No.4003 of 2024 and RA(L) No.4448 of 2024.

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CORAM : R. I. CHAGLA J.

DATE : OCTOBER 15, 2024

P.C.:

1. By these Interim Applications, the Applicants /original Appellants have sought condonation of delay in filing the Appeals under Section 37 of the Arbitration and Conciliation Act, 1996 (for short, “Arbitration Act”).

2. It is pertinent to note that this is a batch of Arbitration Appeals which were not before the Division Bench of this Court when order dated 19 April 2024 was passed. Similar condonation of delay had been sought in those Arbitration Appeals. The delay in filing the Arbitration Appeals in those cases were also exorbitant as in the present Arbitration Appeals. The Division Bench of this Court vide order dated 19 April 2024 had rejected those Arbitration Appeals on the ground that there was no satisfactory explanation for the exorbitant delay. Hence no sufficient cause was made out. However, it is necessary to note that costs was not imposed in those Applications for condonation of delay.

3. In the present Interim Applications, there are Additional Affidavits filed in support to the Interim Application for delay where particulars have been given as to procedures and multiple stakeholders involved and due to which Judgment and Order dated 3 September 2022 could not be challenged under Section 37 of the Arbitration Act within the statutorily period. The particulars have been provided in paragraphs 8 to 15 of the Additional Affidavits. There is reference made to correspondence and several letters seeking approval from the Ministry of Road Transport and Highways for challenging the Judgment of the District Court before this Court under Section 37 of the Arbitration Act. The Approval came much later and hence there was delay in filing all these Arbitration Appeals. The Appellants have sought condonation of delay on the ground that “sufficient cause” has been made out.

4. I have considered the submissions of the learned counsel for the Applicants in the above Interim Applications taken out in the above Arbitration Appeals as well as perused the said order dated 19 April 2024. In my view, the Division Bench of this Court in order dated 19 April 2024 in the other batch of Arbitration Appeals and Interim Applications taken out therein has already considered that there is absolutely no explanation for the delay other than the so called red tape involved in the Government Departments for purposes of approval

to litigate further and to file the Appeal.

5. The Division Bench in this context referred paragraphs 59 and 60 of the decision of the Supreme Court in the case of ***Government of Maharashtra (Water Resources Department) represented by Executive Engineer Vs. Borse Brothers Engineers and Contractors Private Limited***¹. The Division Bench has held that the ratio squarely applies to the facts and circumstances of the present case. The Division Bench has accordingly arrived at a finding that no satisfactory reasons were given for the exorbitant delay in filing Appeals.

6. The learned counsel appearing for the Appellants /Applicants in the above Interim Applications has placed reliance on the decision of the Division Bench of this Court in ***State of Maharashtra Vs. Morya Infrastructure Pvt. Ltd.***² which has considered ***Borse Brother Engineers and Contractors Private Limited*** (Supra) and in support of his submission that sufficient cause as contemplated under Section 5 of the Limitation Act 1963 has been demonstrated coupled with the *bona fides*.

7. I do not find merit in this contention, particularly considering that a similar cause for condonation of delay in filing

1 1 (2021) 6 SCC 460

2 Civil Application No.651 of 2023 in Comm. Arbitration appeal (ST) No.1440/2023
Bombay High Court bench at Aurangabad.

Arbitration Appeals in other batch of matters was not found to be sufficient by the Division Bench of this Court as can be seen from the said order dated 19 April 2024.

8. In that view of the matter, the present Interim Applications seeking condonation of delay in filing the above Arbitration Appeals are dismissed on the ground that no sufficient cause is made out. In these Interim Applications also this Court does not impose costs.

9. In view of the dismissal of the Interim Applications, the Arbitration Appeals do not survive and are accordingly disposed of .

[R. I. CHAGLA J.]