



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

CIVIL APPLICATION (CAF) NO. 796 OF 2024

IN

FIRST APPEAL ST. NO. 16641 OF 2023

VIDC, through Executive Engineer, Yavatmal

Vs.

Chindhu Zibai Tadose (deceased) though 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 orders

Ms Ashwini Athalye, Advocate for the Applicant/Appellant.
 Ms Prachi Joshi, AGP for Respondent Nos.2 & 3.

CORAM : G. A. SANAP, J.

DATED : 24th APRIL, 2024.

1. Heard learned advocate for the appellant.
2. Issue notice to the respondents.
3. Learned AGP waives service of notice on behalf of respondent Nos. 2 and 3/State.
4. This is an application for condonation of 435 days delay caused in filing the appeal against the impugned judgment and award.
5. The reasons for delay have been set out in the application. It is stated that due to administrative procedural delay, the appeal could not be filed within time. It is further stated that there was lack of communication between the officials. The opinion of the superiors was required for filing the appeal. By the time the opinion was received, the period of limitation was over.

6. Learned AGP for respondent Nos.2 and 3 submits that Court may pass an appropriate order.

7. In view of the reasons stated in the application, I am of the view that a case is made out to condone the delay subject to certain conditions. The appellant is an Acquiring Body. In my view, in such cases, saddling the public undertaking only with cost, may not serve larger public interest. In such cases, other options need to be explored and made available to the party. Issuing direction to the public undertaking or other Government Bodies to plant particular number of trees in each case, could be the best available option. Plantation of trees would be beneficial to one and all. In my view, therefore, by way of a condition for condonation of delay, the appellant can be given an option. Accordingly, in this case, delay is condoned. It is subject to condition that the appellant shall **plant twenty-five trees or pay costs of Rs.10,000/-** (Rupees Ten Thousand only) and deposit the said cost in this Court within one month. Learned advocate for the appellant shall file a pursis and exercise the option within 10 days from the date of uploading of the order.

8. As far as the mechanism for implementation of this direction is concerned, the same shall be identical to the one set out in para Nos.7 and 9 of the order dated 25.09.2023 passed in CAF No.130 of 2020. Para Nos.7 and 9 are extracted below :

“7. Concerned acquiring body, Government office or the appellant, as and when directed to plant trees, shall comply the said order and make a report of the same to the District Forest Officer of the concerned district. The District Forest Officer of the concerned district from Vidarbha Region, on receipt of the report, as above, shall depute a responsible officer

to the spot for inspection. The District Forest Officer shall maintain record of the same for two years. The District Forest Officer of the concerned district, after inspection, shall forward the compliance report to the Secretary, High Court Legal Services Sub-Committee, Nagpur. The Secretary of High Court Legal Services Sub-Committee, Nagpur shall maintain case-wise record and as and when required, shall place the same before this Court. The Secretary, High Court Legal Services Sub-Committee, Nagpur can take help of the Secretary of the District Legal Aid Services Authority of the concerned district from Vidarbha Region for the purpose of verification and report.

9. The appellant/authority concerned on exercising option of plantation of trees, will be responsible to maintain the planted trees for two years from the date of plantation. The appellant/authority, in all such cases, shall first utilize the land available with it. In case, the land is not available, the concerned appellant/ body/authority shall make a request to the in-charge of the Social Forestry Department of the concerned district as well as to the Collector or the Tahsildar of the concerned district/taluka for making the Government land available for plantation. The officer of Social Forestry Department/Collector/ Tahsildar shall do the needful as and when such request is received.”

9. The concerned party or authority, on exercise of the option to plant the trees, shall ensure the plantation of trees in the month of July, 2024. In case of the exercise of the option of payment of costs, it shall be paid within one month. The Registry shall register the appeal on filing pursis by the appellant exercising the option.

10. In case the appellant exercises the option of plantation of trees, a copy of this order be forwarded to the Secretary, High Court Legal Services Sub-Committee, Nagpur and the District Forest Officer, Yavatmal for information.

11. The Appeal be registered.

12. The application stands disposed of, accordingly.

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13. Heard.

14. **ADMIT.**

15. Learned AGP waives service of notice on behalf of respondent Nos.2 and 3.

16. Issue notice to respondent No.1, returnable within **eight weeks.**

17. Call for record and proceedings.

18. Private paper book be filed within twelve weeks from the date of receipt of record and proceedings.

(G. A. SANAP, J.)