



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.12167 OF 2024
IN
REVIEW APPLICATION NO.47 OF 2024
IN
FIRST APPEAL (STAMP) NO.15445 OF 2012

Gangaram s/o Maroti Sustarphod
Died by Legal Heirs

- 1a) Bhagirathibai w/o Gangaram Sutarphod
Age: 75 years, Occu.: Household,
R/o. Marajwadi, Tq. Marajwadi,
District Nanded.
- 1b) Anteshwar s/o Gangaram Sustarphod
Age: 40 years, Occu.: Service,
R/o. Marajwadi, Tq. Marajwadi,
District Nanded.
- 1c) Nagnath s/o Gangaram Sustarphod
Age: 34 years, Occu.: Service,
R/o. Marajwadi, Tq. Marajwadi,
District Nanded.

.. Applicants

Versus

1. The State of Maharashtra
Through District Collector,
Nanded.
2. The Special Land Acquisition Officer,
M.I.W., Nanded,
District Nanded.
3. The Executive Engineer,
Vishnupuri Project, Division,
Jangamwadi, Nanded,
Now this office is converted
and Shifted as Executive Engineer,
Lendi Project Division,
At Degloor, Tq. Degloor,
District Nanded.

.. Respondents

...
Mr. G. N. Chincholkar, Advocate for the applicant.
Mr. S. A. Gaikwad, AGP for respondents/State.
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 08 MAY 2025

ORDER :-

. Present application has been filed for permitting the applicants to carry out the amendment in respect of bringing the legal heirs on record in Review Application No.47 of 2024 by extending time.

2. Heard learned Advocate Mr. G. N.Chincholkar for the applicants and learned AGP Mr. S. A. Gaikwad for respondents/State.

3. Present applicants are the legal heirs of original claimant. The original claimant had filed Civil Application No.4528 of 2019 in First Appeal (Stamp) No.15445 of 2012 for condonation of delay of 2289 days in filing First Appeal. Thereafter, the original applicant has filed Review Application No.47 of 2024. However, there was delay of 83 days, therefore, a separate application has been filed. Important point to be noted is that when the original first appeal was intended to be filed, at that time, there were office objections. The first objection was that the name of respondent Nos.2 and 3 differs to certified copy and there was deficit Court fees of Rs.16,380/-. Opportunity appears to have been given, however, when there was no removal of office objections, ultimately by order dated 21.08.2012, the registration of the appeal was refused. That was tried to be challenged in said Civil Application No.4528 of 2019 when there was delay of 2289 days. He

intended to challenge the judgment and award passed in L.A.R. No.398 of 2009 (New) i.e. L.A.R. No.377 of 2006 (Old) dated 21.01.2012 passed by the learned Civil Judge (Senior Division), Link Court, Mukhed, District Nanded. This Court by order dated 30.08.2019 had rejected the said application. Thereafter, by filing Review Application No.47 of 2024, the applicant/original claimant seeks to recall and set aside the said order dated 30.08.2019 passed by this Court, however, again there was delay of 83 days and therefore, Civil Application No.4528 of 2019 was filed and another prayer was also added for setting aside the order dated 01.08.2012 passed by learned Registrar and condoning the delay of 2671 days. However, it was filed along with Civil Application No.12243 of 2022 for bringing the legal representatives of the applicant/original claimant, who had expired on 14.09.2020. The application was within limitation and, therefore, that application came to be allowed on 02.04.2024 and the amendment to the effect of bringing legal representatives was allowed to be made within one week from the date of the order. However, on the same day, the Civil Application for condoning the delay in Review Application No.47 of 2024 was also rejected taking into consideration the fact that twice the same conditions cannot be considered. Now, by way of present application, the applicant seeks permission to carry out the amendment in view of the order passed by this Court on 02.04.2024 in Civil Application No.12243 of 2022. It is then contended that the file

had not reached to the Section Office and the Advocate could not carry out the amendment. To this, there is no documentary evidence. It is then stated that the Advocate was on leave for his personal difficulty from 15.04.2024 to 04.05.2024 and thereafter, there were summer vacations from 11.05.2024 to 09.06.2024. After reopening of the Court, the client took the file and showed it to his Advocate, whom he wants to engage before the Hon'ble Supreme Court and then point of not carrying out the amendment came to highlight and, therefore, now, it is stated that the said amendment be allowed to be carried out.

4. It is to be noted that this Court has become *functus officio* after the order was passed and, therefore, the present application cannot be allowed. Hence, the application stands rejected.

[SMT. VIBHA KANKANWADI]
JUDGE

scm