



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

WRIT PETITION NO.8512/2022

Nandkishor Harichandra Goge and others

Vs.

The State of Maharashtra, through Collector, Akola and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri K.S. Narwade, Advocate for petitioners

Shri B.M. Lonare, AGP for respondent Nos.1 to 3

Ms Malika Babhulkar, Advocate h/f Shri M.A. Kadu, Advocate for respondent No.3

CORAM : SMT. M.S. JAWALKAR, J.

DATED : 05/02/2025

Heard learned Counsel for the respective parties.

2. The present petition is filed challenging the order dated 04.11.2016 below Exh.17 passed by learned Civil Judge Senior Division, Akola. The application is moved for setting aside abatement and bringing legal representatives on record of deceased claimant. Claimant Sumanbai Harichandra Goge died on 25.05.2010, Prabhavatibai died on 19.01.2012 and Vidya Harichandra Goge died on 03.10.2013. The only reason for rejecting the application is given that the applicant has failed to give reasonable explanation for said delay and valuable right has accrued in favour of Government due to delay on the part of applicants.

3. It appears that application is filed on 19.08.2016. It is mentioned in paragraph No.3 that they were not aware about the filing of the claim petition by the deceased Sumanbai, Prabhavatibai and

Vidya and institution of the claim petition in the year 2014 and when the Counsel of deceased Sumanbai, Prabhavatibai and Vidya sent messages to remain present in the Court for adducing evidence, it came to the knowledge of the petitioner.

4. The learned Counsel for petitioner relied on following citations:

1) *Krushnarao Champatrao Nagle (dead), through its LR's and others Vs. The State of Maharashtra, through the Collector Yavamal and another in Civil Application (CAF) No.2325/2022 in First Appeal St. No.15780/2022,*

2) *Writ Petition No.7739/2018 (Late Ramlal s/o sadashiv Kaware, through his LR's Vs. the Special Land Acquisition Officer, Akola and another) and*

3) *Writ Petition No.577/2023 (Late Gumfabai Narayan Pahurkar, Late Shreeram Narayan Pahurkar and late Vijay N. Pahurkar thr. LR's Vs. the State of Maha. Thr. Collector, akola and ors.).*

5. In *Krushnarao Champatrao Nagle (dead), through its LR's and others (supra)*, this Court placed reliance on the judgment of Hon'ble Apex Court in *Imratlal and Ors. Vs. Land Acquisition Collector and ors. (2014) 14 SCC 133*, wherein Hon'ble Apex Court observed in paragraph No.11 which is reproduced hereunder for reference :

"11. We can take judicial notice of the fact that villagers in our country are by and large illiterate and are not conversant with the intricacies of law. They are usually guided by their co- villagers, who are familiar with the proceedings in the Courts or the advocates with whom they get in touch for redressal of their grievance. Affidavits filed in support of

the applications for condonation of delay are usually drafted by the advocates on the basis of half baked information made available by the affected persons. Therefore, in the acquisition matters involving claim for award of just compensation, the Court should adopt a liberal approach and either grant time to the party to file better affidavit to explain delay or suo motu take cognizance of the fact that large number of other similarly situated persons who were affected by the determination of compensation by the Land Acquisition Officer or the Reference Court have been granted relief.”

In view of this judgment, the petitioner is entitled to bring on record the legal representatives of deceased Sumanbai, Prabhavatibai and Vidya.

6. The common principle which arises after considering all the judgments is that judicial notice of the fact can be taken that villagers in our country are by and large illiterate and are not conversant with the intricacies of law. It is also well settled that a liberal and pragmatic approach is to be taken while considering the delay application and no pedantic approach is appreciable. In the above-referred citation, the huge delay is condoned on waiver of interest. Considering a delay of near about 6 years in the present matter, it would be appropriate to condone the same subject to waving of interest for the delayed period.

7. The order dated 04.11.2016, below Exhibit-17 in L.A.C. No.12/2007 passed by learned Civil Judge Senior Division, Akola is hereby quashed and set

aside.

8. The applicants are allowed to substitute their names in place of deceased-claimant subject to above condition of waiver of interest.

9. The Writ Petition is disposed of accordingly.

JUDGE

R.S. Sahare