

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

CIVIL APPLICATION (CAF) NO.480 OF 2021
IN
FIRST APPEAL STAMP NO.10716 OF 2020

Vidharbha Irrigation Development Corporation Through its Executive Engineer,
Bembla Canal Division, Yavatmal
Vs.
Ramkrushna Kanhoba Asutkar 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. Amit M. Kukday, Advocate for appellant.
Shri. K. S. Narwade, Advocate for respondent Nos.1 to 4.
Shri. M. A. Kadu, AGP for respondent Nos.5 and 6.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 31/01/2023

1. By this application, the appellant/applicant is seeking condonation of delay of 192 days caused in filing the appeal.

2. As per contention of the appellant, the appellant has challenged the judgment and award passed by 2nd Joint Civil Judge Senior Division, Yavatmal by which exorbitant compensation is granted. As per contention of the appellant, the appellant has to seek approvals from its higher officials wherein the time is consumed, and therefore delay is caused.

3. The learned Advocate Shri Narwade, for the respondent Nos.1 to 3 has no objection to condone the delay.

4. In view of the reasons mentioned in the application, which are just and reasonable cause for condonation of delay.

5. In view of the reasons mentioned in the application, delay of 192 days is condoned.

6. Civil Application is disposed of.

7. Appeal be registered.

FIRST APPEAL NO. OF 2023

1. **Admit.**

2. Mr. Narwade, learned Advocate waives notice for respondent Nos.1 to 4.

3. Mr. M. A. Kadu, learned AGP waives notice for respondent Nos.5 and 6.

4. Call for record and proceedings.

5. Appellant to file paper-book within eight weeks. After receipt of the record and proceedings, stand over after eight weeks.

Civil Application (CAF) No.481 of 2021

1. By this application, the appellant is seeking stay to the effect and operation of the impugned

judgment and decree dated 28.11.2019 passed by 2nd Joint Civil Judge Senior Division, Yavatmal.

2. In view of the earlier order passed by this Court, the appellant has already deposited the entire amount of compensation. In view of that, the operation, effect and execution of the impugned award is stayed, till final disposal of the appeal.

3. Civil Application No.481 of 2021 is disposed of.

Civil Application (CAF) No.272 of 2023

1. By this application, respondent Nos.1 to 4 are seeking permission for withdrawal of the amount. As per the contention of the respondent Nos.1 to 4, as the land of the respondent Nos.1 to 4 was acquired by the Government. They have no source of income for their livelihood, and therefore they may be permitted to withdraw the amount of compensation which is deposited by the appellant. It is further prayed by the respondent Nos.1 to 4 that they may be permitted to withdraw the amount through respondent No.4 who is Power of Attorney for all the respondents.

2. The learned Advocate Shri Kukday for the appellant submitted that as the appellant has challenged the judgment and award on the ground that amount of compensation awarded is exorbitant one. The

respondents be permitted to withdraw 50% of the amount.

3. In view of the reasons mentioned in the application, and the submissions made by the learned Advocate for the appellant, respondent Nos.1 to 4 are permitted to withdraw 50% of the amount along with accrued interest on usual undertaking.

4. The amount be disbursed to the Power of Attorney i.e. respondent No.4 on behalf of respondent Nos.1 to 3.

5. The respondent No.4 shall file an affidavit that the share of the respondent Nos.1 to 3 was disbursed to them after withdrawal of the amount.

6. Civil Application No.272 of 2023 is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate