

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 10467 OF 2015
IN FAST/24051/2015 WITH
CA/10469/2015 IN FAST/24083/2015 WITH
CA/10471/2015 IN FAST/24080/2015 WITH
CA/10473/2015 IN FAST/24077/2015 WITH
CA/10477/2015 IN FAST/24086/2015 WITH
CA/10479/2015 IN FAST/24071/2015

ZILHA PARISHAD JALNATHR EXE ENGINEER AND ORS
VERSUS
SHRIRAM ALIAS SHRIRAN SAPATE AND ORS

...

Advocate for Applicants : Mr. Sambhaji S. Tope.
Advocate for Respondents : Mr. D. M. Kakade & Mr. Koralkar.

CORAM : A.M. BADAR, J.
DATE : 11th DECEMBER, 2015.

PER COURT:

1] These are applications for condonation of delay filed by acquiring body. The delay of about 437 to 1320 days has been occasioned in filing appeal under Section 54 of the Land Acquisition Act by the acquiring body. The acquiring authority is seeking to challenge the enhancement of compensation from Rs. 360 to 1800 per Are awarded by the Reference Court.

2] Heard Shri Tope, Advocate or the applicants and Shri D.M. Kakade, Advocate and Shri Koralkar Advocate for non applicants.

3] Perusal of the application shows that reference were reserved for judgment by the learned Reference Court and ultimately the judgment and award came to be pronounced on some latter date. Duly sworn testimony of the applicant shows that they were not aware about the date of pronouncement of judgment. In such circumstances, as explained by applicants, after coming to know about the judgment and award they immediately applied for certified copies of the judgment and award and

thereafter, necessary steps were taken for taking decision in order to challenge the judgment and award by filing appropriate proceedings.

4] Shri Tope, learned counsel submits that applicants were prevented by bonafide cause in not filing appeal within period of limitation. He submits that averments made in the application makes it clear that the delay so occasioned was for the reasons beyond the control of the applicants.

5] As against this, Shri Kakade and Shri Koralkar learned counsel for the non applicants argued that the delay is inordinate and not sufficiently explained.

6] Quantum of delay hardly matters once sufficient cause is established. In the case in hand, duly sworn testimony of the applicants to the effect that the Reference Court reserved matters for judgment and on some latter date, judgment and awards were pronounced, has not been controverted by filing counter. When applicants were not aware about the date of judgment and award, in such situation, learned Reference Court ought to have issued notice for pronouncement of judgment and award to the parties in order to make them aware about the judgment and award. It is further seen that subsequently, necessary steps were taken as conscious decision was required to be taken at different levels for deciding, whether to acquiesce in or to challenge the judgment and award.

7] As such, applicants were prevented by sufficient cause in not filing appeals within the period of limitation. Even otherwise, by condoning delay, appeals can be decided on merits. It is trite that primary function of the court is to adjudicate the dispute on merit. No prejudice will be caused to the non applicants in such situation. Hence the following order :-

[a] The applications for condonation of delay are allowed. Delay in

filing First appeals challenging the judgment and award of the Reference Court, is condoned.

8] Civil applications are disposed of accordingly.

[A.M. BADAR, J]

grt/-