

IN THE HIGH COURT OF BOMBAY AT GOA**MISCELLANEOUS CIVIL APPLICATION No. 872 of 2014**

THE DEPUTY COLLECTOR (L.A.)
AND ANR. .. Applicants.
Versus
MR. ISIDORE GRACIAS
(SINCE DECEASED)
THROUGH LRS. .. Respondents.

Ms. Priyanka Kamat, Additional Government Advocate for the applicants.

Ms. V. Palyekar, Advocate for respondents no. 1(a) and 1(b).

Coram :- U. V. BAKRE, J.

DATE :- 4th February, 2015.

P.C.

Heard Ms. Kamat, learned Counsel for the applicants and Ms. Palyekar, learned Counsel for the respondents no. 1(a) and 1(b). Other respondents are absent, though duly served. An affidavit of service has been filed by the UDC working in the Office of the Assistant Director of Transport, Canacona-Goa.

2. By this application, the applicants have prayed for condonation of delay of about 695 days in preferring appeal against the judgment and award dated 28/05/2012 passed by the learned Principal District Judge, South Goa, Margao in Land Acquisition Case No. 107 of 1999.

3. Ms. Kamat, learned Additional Government Advocate read out paragraphs 2 to 9 of the application and submitted that appropriate reasons have been given showing sufficient cause for delay and that delay, not being intentional, be condoned. She relied upon the judgment of the Hon'ble Supreme Court in the case of "*Collector, Land Acquisition, Anantnag and another Vs. Katiji and others*", [AIR 1987 1353]. Learned Additional Government Advocate submitted that this Court in M.C.A. No. 190/2013 (*The Dy. Collector (S.D.O.) and Anr. Vs. Shri Edgar F. Dias Valles Through POA Smt. Augusta Iria Valles*), in similar matter and for similar reasons, this Court by order dated 05/04/2013 condoned delay of 1781 days. She produced a copy of the order of this Court for perusal.

4. On the other hand, Ms. Palyekar, learned Counsel for the respondents no. 1(a) and 1(b), opposing the application, submitted that the same is casual and that the reasons stated therein are vague. She pointed out that the dates of movement of the file to various departments have not been stated. According to her, no sufficient cause at all has been shown and, therefore, the application is liable to be dismissed. Learned Counsel urged that the facts and circumstances in Misc. Civil Application No. 190 of 2013 are not before this Court and hence

the order dated 05/04/2013 cannot be relied upon. In the alternative, the learned Counsel submitted that if this Court is inclined to allow this application, heavy costs be awarded.

5. I have gone through the application and considered the arguments advanced by the learned Counsel for the parties.

6. It is seen that in Land Acquisition Case No. 107/1999, the Land Acquisition Officer had awarded compensation at the rate of ₹ 7/- per square metre, but the learned Reference Court has enhanced the same to ₹ 200/- per square metre. There is, therefore, substantial increase in the compensation. The applicants cannot gain anything by filing the appeal belatedly. It is seen that the appeal has been already filed in similar Land Acquisition Case arising out of the same notification published under Section 4(1) of the L. A. Act which is First Appeal No. 140/2012. It is also stated that some more appeals from similar Land Acquisition Cases have also been filed. It is stated by the applicants that only after filing of the said other appeals, it was realised that no appeal was preferred in the present matter.

7. Considering the reasons stated in paragraphs no. 2 to 9 of the application and in view of the principles laid down by the Apex Court in the case of *“Collector Land Acquisition, Anantnag*

and another" (supra), I am of the view that sufficient cause for delay is shown by the applicants. However, as pointed out by the learned Counsel for respondents no. 1(a) and 1(b), long delay of 695 days has caused grave inconvenience to the said respondents. However, the same can be made good by awarding the costs.

8. In the result, the application is allowed.

(a) Delay is condoned, subject to payment of costs at ₹ 5,000/- to the respondents no. 1(a) and 1(b).

(b) Registry to register the appeal.

9. The application stands disposed of.

U. V. BAKRE, J.

SMA