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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.144 OF 2015
IN
FIRST APPEAL (ST) NO.206 OF 2015**

Shripat Ramchandra Desai

(deceased through his legal heirs)

a)Smt.Leelabai Shripatrao Desai and Ors.

...Applicants

v/s.

The Special Land Acquisition Officer and Ors.

...Respondents.

Mr.S.M.Kamble, for the Applicants/Appellants.

Mr.A.R.Patil, AGP for the Respondent No.1.

**CORAM: A. S. OKA &
REVATI MOHITE DERE, JJ.**

DATED : 5th AUGUST, 2015.

P.C.

1. Heard the learned counsel appearing for the applicants and the learned AGP appearing for the first respondent.

2. This is an application for condonation of delay in preferring a First Appeal for challenging the Judgment and Award in a Reference under Section 18 of the Land Acquisition Act, 1894 made at the instance of the applicants. The delay is of more than six years. In paragraph 5 of the

application, it is contended that the applicants were not aware of the impugned Judgment and Award as the Advocate appearing on their behalf did not inform them about the same. It is stated that in March 2012, when they visited the office of the Special Land Acquisition Officer, they were informed that by the impugned Judgment and Award, the Reference under Section 18 made at the instance of the applicants was dismissed. It is stated that an application for certified copy of the Judgment and Award was filed on 17th March, 2012. The Appeal could not be filed earlier as the applicants took some time to collect the necessary funds for payment of Court Fees of Rs.15,000/- and other expenses.

3. There is a reply filed by Shri Ravindra Gulab Bombale opposing the application for condonation of delay in which it is contended that the applicants were not diligent in prosecuting the proceedings. It is further contended that if the appeal is entertained and same is allowed, the State Government will have to pay interest on the enhanced amount of compensation at the rate of 9% per annum for a period of one year from the date on which the possession of the acquired land was taken and at the interest of 15% per annum for subsequent years. It is contended that the State will be penalized for the lapse and lethargy on the part of the

applicants.

4. The applicants have tendered undertakings. In clause – 3 thereof it is stated that in the event the appeal is allowed and enhanced compensation is granted, the applicants shall not claim any statutory benefits under Section 28 of the Land Acquisition Act, 1894 wherein interest at the rate of 9% and 15% per annum is respectively payable.

5. A perusal of the impugned Judgment and Award shows that a very large agricultural land held by the applicants has been acquired. The Reference made at the instance of the applicants has been dismissed. Even if the appeal is entertained and allowed, there will not be any prejudice to the State Government as the applicants have given up the entire interest payable under Section 28 of the Land Acquisition Act, 1894.

6. Only in view of the undertakings the State will not be put to any monetary loss on account of the delay on the part of the applicants. We find that sufficient cause is made out for condonation of delay. Accordingly, rule is made absolute in terms of prayer clause (a).

7. We direct that a copy of the undertaking of the Applicants and a copy of this order shall be placed on record of the First Appeal.

(REVATI MOHITE DERE,J.)

(A.S. OKA,J.)