

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

**CIVIL APPLICATION NO.3166 OF 2013
IN
FIRST APPEAL (ST). NO.14199 OF 2012**

Maharashtra Krishna Valley Development
Corporation through its
Executive Engineer,
Pimpalgaon Joge Project

.. Applicant

vs.

Narhari Kondiba Pawar & Ors.

.. Respondents

Mr.V.S.Tadke i/b Mr.D.D.Shinde for the applicant

Mr.Rasan Pawar, A.G.P. for the respondent nos.2 and 3

**CORAM : K.K.TATED, J.
DATED : 11/03/2015**

PC:

1 Heard the learned counsel for the parties.

2 This application is preferred by original respondent no.3 acquiring body for condonation of 4 years and 153 days delay in filing First Appeal challenging the judgment and award dated 28.8.2007 passed by Reference Court in LAR No.729 of 2002 holding that the respondents claimants are entitled enhanced compensation in respect of acquired land to the tune of Rs.30,559/- with additional compensation

as per amended provision of the Land Acquisition Act.

3 The learned counsel for the applicant submits that the office of the applicant applied for certified copy on 25.10.2010. Same was ready on 21.12.2010. He submits that certified copy of judgment and award was collected by their concerned clerk on 23.12.2010. Thereafter, Advocate Satish H.Limaye gave his legal opinion on 10.01.2011 to the Executive Engineer for filing Appeal in this court. The said Advocate Satish H. Limaye also gave his explanation for delay on 28.01.2011. Thereafter the Executive Engineer Pimpalgaon Joge Dam Division Naryangaon - Junnar issued letter dated 20.4.2011 to the legal advisor of Maharashtra Krishna Valley Development Corporation to file Appeal before this court. Thereafter the Corporation decided to file First Appeal and issued a letter dated 14.07.2011 to the concerned Advocate. He submits that the concerned Advocate received letter dated 18.02.2012 for filing First Appeal in this court along with requisite amount of court fees and miscellaneous expenses. Thereafter the present First Appeal filed in this court on 25.4.2012.

4 The learned counsel for the applicant submits that being the Corporation they have to take approvals at several levels. Therefore there is a delay in preferring the present First Appeal in this court. He further submits that actually there was a delay on the part of Advocate who appeared in the Trial Court in applying for certified copy of impugned judgment and award. He submits that applicant has good chance of success in the present proceeding. He submits that the Reference Court awarded enhanced compensation in favour of the

respondent claimant, without considering the evidence on record. He submits that in the interest of justice, this Hon'ble Court be pleased to condone the delay in preferring the present First Appeal and matter be heard on its own merits.

5 The learned counsel for the respondent vehemently opposed the present Civil Application. He submits that applicant has not shown sufficient cause for condonation of 4 years and 153 days delay in filing First Appeal. He submits that though the judgment and award passed by Reference Court on 28.8.2007 the applicant filed application for certified copy after 3 years and 2 months. There is no explanation why the applicant took more than 3 years in applying for certified copy. He further submits that in the present proceeding, the Reference Court has awarded meagre amount towards enhanced compensation of acquired land. He submits that the Reference court awarded Rs.30,559/- towards enhanced compensation. On the basis of these submissions, the learned counsel for the respondent claimant submits that there is no substance in the present Civil Application and same be dismissed with costs.

6 I have heard both the sides. In the present proceeding the applicant failed to disclose the reasons why they took more than 3 years in applying for certified copy of impugned judgment and award passed by Reference Court. There is no explanation in the entire Civil Application and or affidavit of advocate who appeared before the Trial Court explaining the delay in applying for certified copy.

7 Apart from that in the present proceeding, the Reference court has awarded meagre enhanced compensation in respect of acquired land to the tune of Rs.30559/-.

8 Our High Court in the matter of **Laxman Divekar Vs. State of Maharashtra 1998 (1) Mh.L.J 745** held that Court has no power to arbitrarily condone the delay in the name of advancing substantial justice just because the applicant happen to be a Corporation.

9 The Apex Court in the matter of **Damodar Pillai Vs. South Indian Bank Ltd, 2005(5) All.M.R. 961 (SC)** held that hardship or injustice is not a ground for extending the period of limitation.

10 Our High Court in the matter of **Special Land Acquisition Officer & Anr. Vs Jose Prezares De Piedade Pinto, 2006(2) Bom.C.R 773** held that delay caused due to movement of file from one table to another cannot be a reason for condonation of delay.

11 The Apex Court in the matter of **Pundlik Jalam Patil Vs. Ex.Engg. Jalgaon Medium Project and Ors, 2008(6) BCR 513** held that unless and until sufficient cause is shown, inordinate delay should not be condoned.

12 The Apex Court in the matter of **Oriental Aroma Chemical Industries Limited Vs. Gujarat Industrial Development Corporation reported in 2010 (5) SCC 459**, held that in the absence of sufficient cause, Court should not condone the delay.

13 Recently, the Apex Court in the matter of Esha Bhattacharajee Vs. Managing Committee of **Raghunathpur Nafar Academy 2013(12) S.C 450** held that if sufficient cause is not shown, application for condonation of delay be rejected.

14 In view of above mentioned facts and the law declared by the Apex Court I do not find any substance in the present Civil Application. Civil Application stands rejected.

15 In view thereof, registration of First Appeal ((ST).) No.14199 of 2012 does not survive. The same is also dismissed as infructuous.

(K.K.TATED, J.)