

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

CIVIL APPLICATION NO.567 OF 2014
IN
FIRST APPEAL (ST) NO.14287 OF 2012
WITH
CIVIL APPLICATION NO.568 OF 2014

Maharashtra Krishna Valley Development Corpn. ...Applicant

V/s.

Gulab Ismail Inamdar (Mulani) & Ors. ...Respondents

Mr. V. S. Tadke i/b. D. D. Shinde for the Applicant.
None for the Respondents.

CORAM: K.K. TATED, J.
DATED : JUNE 10, 2015

PC. :

1. Heard the learned counsel for the Applicant. This Application is preferred by the acquiring body for condonation of 4 years and 150 days delay in filing the First Appeal challenging the judgment and award dated 30/08/2007 passed by the Reference Court in LAR No.739/2002 awarding additional compensation of Rs.84478/- towards the acquired land.

2. The learned counsel for the Applicant submits that as soon as the impugned judgment and award passed by the Reference Court, they applied for certified copy on 25/10/2010. Same was ready on 21/12/2010 and collected on 23/12/2010. He submits that thereafter the matter was referred to their Advocate Satish H. Limaye for legal

opinion. On the basis of the said legal opinion, Executive Engineer , Pimpalgaon Jog Dam Division, Naayngaon-Junnar decided on 20/04/2011 to file an appeal before this court. Thereafter the concerned Advocate, to whom the papers were handed over to file an appeal in this court, issued a letter dated 14/07/2011 directing the Applicant to pay the amount of court fees and misc. expenses for filing the First Appeal. He submits that the concerned Advocate received amount of court fees and other expenses on 18/02/2012 and thereafter the present appeal filed before this court on 25/04/2012. He submits that before filing the appeal before this court, they have to take opinion from several officers. Because of that, there is delay in preferring the First Appeal. In support of this contention, the learned counsel for the Applicant relies on paragraph 7 of the Civil Application which reads thus:

“7. The Applicant states that the procedure prescribed for filing of First Appeal in this Hon'ble Court by the Corporation requires scrutiny of the proposal for filing First Appeal at various stages. Initially, the Panel Advocate who appeared in the Reference court and conducted the reference requires to give his opinion to the concerned division/department, whether the First Appeal is to be filed before the Hon'ble High Court. The Applicant further states that thereafter the concerned division/department also requires to forward the entire papers along with the opinion of the Panel Advocate to the corporation whose office is situated at Pune. The Applicant further states that the Legal Advisor of the Corporation thereafter requires to give his opinion to the Corporation whether the First Appeal is to be filed or not before the Hon'ble High Court. After the opinion of Legal Advisor, the entire proposal is scrutinized by the Executive Director and ultimately accord the sanction in filing the First Appeal before this Hon'ble Court. The Applicant further states that after the sanction for filing First Appeal, the papers are sent to the concerned Advocate for filing an appeal before the Hon'ble High Court.”

3. The learned counsel for the Applicant submits that the Applicant has good chance of success in the matter. He submits that the Reference Court awarded enhanced compensation in respect of the acquired land without considering the relevant sale instances on record. He submits that if delay is not condoned, irreparable loss and injury will be caused to the Applicant. He submits that, in the interest of justice, this Hon'ble Court be pleased to condone the delay in preferring the First Appeal.

4. Heard the learned counsel for the Applicant at length. Though the Respondents are duly served none appeared for them.

5. In the present proceedings the SLO issued Notification under section 4 of the Land Acquisition Act, 1894 on 01/12/1995 for acquiring the Respondent-Claimant's land for submergence of Pimpalgaon Joge Project. After following due process of law the SLO declared the award under section 11 of the Land Acquisition Act, 1894 on 31/01/1997 and awarded compensation in respect of the acquired land.

6. Being aggrieved by the said award, the Respondent-Claimant preferred the Reference under section 18 of the Land Acquisition Act, 1894 for additional compensation.

7. The Reference Court decided the Reference by award dated 30/08/2007 and awarded compensation of Rs.84478/-.

8. It is to be noted that in the present proceedings though the Reference Court passed judgment and award on 30/08/2007 the Applicant applied for certified copy on 25/10/2010. There is no explanation in the Civil Application as to why the Applicant took more than 3 years to apply for certified copy. The certified copy was ready on 21/12/2010 and that was collected by the Applicant on 24/12/2010. The concerned Executive Engineer, Pimpalgaon Joge Dam Division, Narayangaon-Junnar decided to file First Appeal in this court on 20/04/2011. There is no explanation in the Civil Application why the concerned Executive Engineer took more than 4 months to decide about filing present First Appeal. Though the decision was taken on 20/04/2011, the present First Appeal has been filed by them before this on 20/04/2012. There is no explanation why the Applicant took more than 1 year to file the present appeal in this court.

9. This 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. This court, further 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.

10. 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. The Apex Court further 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.

11. 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. The Apex Court in the matter of **Maniben Devraj Shah Vs. Municipal Corporation of Brihan, Mumbai reported in 2012 (5) SCC 157**, held that no premium be given for total lethargy or utter negligence of State officers/machinery/agency/ instrumentality and condonation of delay caused by such officer cannot be allowed as a matter of course by accepting the plea that dismissal on the ground of limitation will caused injury to public interest. In the case of **B. Madhuri Gaud Vs. B. Damodar Reddy, 2012 (12) SCC 693** the Apex Court held that if sufficient cause is not shown, delay should not be condoned.

12. The Apex Court in the matter of **Esha Bhattacharjee 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 needs to be rejected.

13. Considering the reasons disclosed by the Applicant in paragraph 7 of the Civil Application, I do not find any reason to condone the inordinate delay of 4 years 150 days in preferring the First Appeal. Hence, the Civil Application stands dismissed.

14. In view thereof, registration of the First Appeal stands rejected.

Consequently, Civil Application No.568/2014 stands dismissed as infructuous.

(K.K. TATED, J.)