

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (CAO) NO.1492 OF 2015
IN
MISC. CIVIL APPLICATION (ST) NO.12838 OF 2015
IN
FIRST APPEAL NO.137 OF 1992

Gambhirmal s/o Balaji Sharma Thr. POA Holder Kailas s.o Gambhirmal Sharma

-vs-

The Collector, Yavatmal and Ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri H. R. Dhumale, Advocate for applicant/appellant.
Shri M. A. Kadu, AGP for respondent No.1
Shri M. R. Johrapurkar, Advocate for respondent No.2.

CORAM : A.S.CHANDURKAR, J.
DATE : September 29, 2015

Prayer is to condone delay in filing restoration application. In the application it is stated that the appeal was filed in the year 1992, but the same came to be dismissed by order dated 05/12/2009. This dismissal was on account of absence of counsel for the appellant. In the application it is stated that the applicant was not aware that the appeal was being taken up for hearing. Similarly, the counsel appearing for the appellant was not well and hence he remained absent resulting in dismissal of the appeal. After getting knowledge of the aforesaid, the present application has been filed.

The prayer is opposed by Shri M.A.Kadu, learned Assistant Government Pleader for respondent Nos.1 and 3 and Shri M. R. Johrapurkar, learned counsel for non-applicant No.2.

Considering the fact that the applicant cannot be blamed for absence of his counsel, the delay in filing restoration application stands condoned. The same is however subject to applicant not being entitled for interest on the amount of compensation if enhanced for the period from 05/12/2009 till 08/07/2015. Application is allowed and disposed of in aforesaid terms.

M.C.A.(St) No.12838 of 2015

For reasons mentioned in the application, the same is allowed and first appeal is restored to file after recalling the order dated 05/12/2009.

F.A.No.137 of 1992

This appeal has been filed under Section 54 of the Land Acquisition Act, 1894 seeking enhancement in the amount of compensation. It is not necessary to go into the details as it is informed by learned counsel for the parties that connected appeals arising out of similar notification under the said Act have been decided vide judgment dated 29/01/2015 and the the amount of compensation for the land has been enhanced by Rs.7,500/- per hectare along with statutory benefits. Hence for reasons recorded in judgment dated 29/01/2015 in F.A.No.723 of 1991, the following order is passed :

It is held that the appellants are entitled for enhanced compensation of Rs.7500/- per hectare in addition to the compensation of Rs.12,500/- per hectare along with the statutory benefits granted by the Reference Court.

It is held that the appellants are not entitled for the additional amount of 12% as per Section 23(1-A) of the Land Acquisition Act, 1894 and the interest on it. Clause (2) of the operative part of the impugned order passed by the Reference Court is set aside.

In view of order passed on Civil Application No.1492 of 2015, the appellant will not be entitled for interest on the enhanced amount of compensation for the period from 05/12/2009 till 08/07/2015.

Appeal is partly allowed in aforesaid terms.

JUDGE