

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

C.A.F.NO. 59/2015 IN F.A.ST.NO. 21169/2014.

State of Maharashtra and others.

-VERSUS-

Nikhil Narendra Bhagat

C.A.F.NO. 261/2015 IN F.A.ST.NO. 21164/2014.

State of Maharashtra and others.

-VERSUS-

Ravindra Sitaram Deulkar and another.

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

Court's or Judge's Orders

**CORAM : B.P.DHARMADHIKARI &
S.B.SHUKRE, JJ.**

DATE : MARCH 23, 2015.

Heard Shri N.R. Rode, learned A.G.P. for
the applicants/appellants and Shri Anand Parchure,
learned Counsel for respondents.

2] Prayer in both these applications filed by
the State Government is to condone delay of 171 days
in filing Appeal under Section 54 of the Land
Acquisition Act. Matters were first looked into by this
Court on 02.02.2015, and on that day, learned A.G.P.

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was given time to file additional affidavit of the Authorized Officer. That additional affidavit has been filed on 18.02.2015.

3] We have considered the original affidavit as also the additional affidavit.

4] Learned Counsel for respondents - land owners has strongly opposed the prayer for condonation of delay. According to him, original applications as also additional affidavits show total non-application of mind and a casual approach. He submits that in the light of three judgments of the Hon'ble Apex Court, on which he has placed reliance there is no scope for condoning the delay in present matter. He has also attempted to show that enhancement granted in these matters is based upon sale instances and therefore, reasonable one.

5] Learned A.G.P. in reply has submitted that the Land Acquisition Officer while delivering award under Section 11, has awarded rate of Rs. 2,29,000/- per hector and it has been enhanced by almost 10 times i.e. Rs. 24,70,000/- per hector in reference proceedings.

6] Unless and until delay is properly

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explained, we cannot look into the merits of the controversy.

7] Civil Applications under Section 5 of the Limitation Act are filed in both these matters on 28.10.2014. In said applications, while giving relevant dates in paragraph no.2 wrong dates / events appear. This Court therefore, granted applicants opportunity to file additional affidavit. That affidavit has been filed on 18.02.2015. Date of delivery of judgment under Section 18; application for grant of certified copy; receipt of certified copy and relevant other developments match with the dates which are given on certified copy, however, in the additional affidavit it is mentioned that appeal has been filed on 16.08.2014. Record show that appeals are filed on 28.10.2014.

8] It is in this background that we have looked into the judgments of Hon'ble Apex Court reported at 2014 (2) SCC 422 (State of U.P. .vrs. Amar Nath Yadav), particularly paragraph no.2, where the Hon'ble Apex Court has drawn upon its earlier judgment reported at 2012 (3) SCC 563 (Post Master General .vrs. Living Media India Ltd.). Shri Parchure, learned counsel has also relied upon

judgment reported at 2013 (9) SCC 92 (Mahanagar Telephone Nigam .vrs. State of Maharashtra) and 17 principles which the Hon'ble Apex Court has explained in 2013 (12) SCC 649 (Esha Bhattacharjee Managing Committee .vrs. Raghunathpur Nagar Academy and others).

9] Having considered the law as laid down by the Hon'ble Apex Court, we find that inspite of specific opportunity given to the applicants, the period from 16.08.2014 to 28.10.2014, has not been explained. Period is in excess of 72 days. The delay as pointed by the Registry is of 171 days. Hence, even if we accept the additional affidavit filed by the applicants to be correct, delay of about 72 days has not at all been explained.

In the circumstances, both the applications are rejected. No cost.

JUDGE

JUDGE

Rgd.