

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1) CA NO.3960/2016group

**925 CIVIL APPLICATION NO. 3960 OF 2016
IN FAST/814/2016**

WITH

CA/3957/2016 IN FAST/978/2016

WITH

CA/3958/2016 IN FAST/978/2016

WITH

CA/3959/2016 IN FAST/978/2016

WITH

CA/3961/2016 IN FAST/814/2016

WITH

CA/3962/2016 IN FAST/814/2016

WITH

CA/3966/2016 IN FAST/901/2016

WITH

CA/3967/2016 IN FAST/901/2016

WITH

CA/3968/2016 IN FAST/901/2016

WITH

CA/3972/2016 IN FAST/893/2016

WITH

CA/3973/2016 IN FAST/893/2016

WITH

CA/3974/2016 IN FAST/893/2016

THE EXECUTIVE ENGINEER, KUKADI DISTRIBUTION AND
CONSTRUCTION DIVISION, KOLWADI
VERSUS
THE STATE OF MAHARASHTRA AND ANR

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Advocate for Applicants : Mr.Rajale Gulab B.
AGP for Respondent State: Mr.A.M.Phule
Mr.N.K.Kakade, Advocate, for respondent no.2.

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WITH

**FAST NOS. 814/2016, 893/2016, 901/2016
978/2016**

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(2) CA NO.3960/2016group

CORAM : P.R. BORA, J.
Dated: October 21, 2016

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PER COURT :-

1. In view of the fact that the acquiring body was not made party to the proceedings before the Reference Court, the applications seeking leave to prefer appeal are allowed and stand disposed of.

2. Delay of 2060 days has occurred in filing the present appeals by the acquiring body. Shri G.B.Rajale, learned Counsel appearing for the acquiring body, submits that since the acquiring body was not made party in the proceedings before the Reference Court, it could not defend the proceedings before the Reference Court, and the acquiring body became aware of the award only when execution proceedings were filed. Learned Counsel has, therefore, prayed for condonation of delay.

3. Shri N.K.Kakade, learned Counsel appearing for the respondent / original claimants in all these matters, has opposed the submission. Learned Counsel submitted that the reasons which are assigned for occurrence of delay are insufficient. Learned Counsel further submits

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that it is unbelievable that for couple of years the acquiring body may not be aware of passing of the award. Learned Counsel, in the alternative, submitted that award under Section 11 has been passed long back in the year 1990 and if the learned Counsel for the acquiring body is ready to argue the matter today itself the respondents may not have any objection to condone the delay. Learned Counsel for the acquiring body has promptly shown his readiness for arguing the matter today itself. In view of the submissions so made, delay is condoned. Civil Applications for condonation of delay stand disposed of. The appeals be registered in accordance with law.

4. Heard learned Counsel for respective parties. Issue notice to the respondents in the Appeals. Shri N.K.Kakade, Learned Counsel, waives notice for original claimants in all these matters. Learned A.G.P. appears for all the respondents in the matter.

5. When this group of Appeals is taken up for hearing at admission stage, Shri N.K.Kakade, learned Counsel appearing for the claimants in all these matters, tendered across the Bar copy of the judgment passed by this Court on 29th September, 2016, in First Appeal No.3564 of 2016, with the connected appeals, and submitted that the present appeals are arising out of the same acquisition proceedings and the lands involved in the

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present appeals are from the same village i.e. Wadgaon Tanpura. Learned Counsel submitted that considering the facts in the aforesaid matters, vide the aforesaid judgment, this Court has dismissed the appeals observing that the Reference Court has awarded adequate compensation and no interference is warranted. Shri Rajale, learned Counsel appearing for the acquiring body concedes that some of the appeals arising out of the same acquisition proceedings have been dismissed by this Court vide the aforesaid judgment in First Appeal No.3564/2016. After having considered the submissions so raised and after having gone through the impugned judgment, it appears to me that the same course needs to be followed in these cases also.

6. In the present matters also, the lands which are subject matter of the present appeals were acquired for Kukadi Canal Project. The notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was published in the Government Gazette in the year 1988 and the award under Section 11 came to be passed on 31st of March, 1990. The Special Land Acquisition Officer fixed the market value of the acquired lands at the rate of Rs.5,000/- per hectare for Jirayat land and accordingly offered the amount of compensation to the

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respective land holders. Learned Reference Court, from the evidence brought on record before it, determined the market value of the acquired lands at the rate of Rs.17,500/- per hectare for Jirayat land and has accordingly enhanced the amount of compensation. On perusal of the impugned judgment, it is revealed that the Reference Court has relied upon the earlier decision in L.A.R.No.20/2003, arising out of the same acquisition proceedings wherein the market value of the acquired lands was determined at the rate of Rs.7,000/- per acre i.e. Rs.17,500/- per hectare.

7. Considering that in the proceedings arising out of the same acquisition, previously, the Court has fixed the market value at the aforesaid rate, The Reference Court has adopted the same course and did fix the market value of the acquired lands at the rate of Rs.17,500/- per hectare and has accordingly enhanced the amount of compensation. On a query made by this Court, Shri Rajale, learned Counsel appearing for the acquiring body, informs that, according to the information available with him, no appeal was preferred against the judgment and award passed in LAR No.20/2003.

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8. After having considered the impugned judgment, it does not appear to me that the Reference Court has committed any error in holding the market value at the rate of Rs.17,500/- per hectare. No ground is made out in the appeals so as to cause any interference in the impugned judgment and award. The First Appeals on Stamp, therefore, fail and are accordingly dismissed, however, without any order as to the costs. Pending Civil Applications, if any, stand disposed of.

(P.R. BORA, J.)

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