

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

955 CIVIL APPLICATION NO. 2614 OF 2016
IN FAST/4034/2016 WITH CA/12240/2016 IN
FAST/4034/2016

G.M.I.D.C., AURANGABAD THR ITS EXE ENGINEER,
UPPER PENGANGA PROJECT DIV. NO.1, NA
VERSUS
RADHABAI KISHAN KADAM AND OTHERS

...

Advocate for Applicant : Mr. Biradar R.D.
Mr. MD Narwadkar, Adv. For Resp.no.1;
Mr.SN Morampalle, AGP for Respondents:2.

CORAM : P.R.BORA, J.

DATE : 2nd September, 2016.

PER COURT :

1) Heard the learned Counsel for the respective parties.

2) Delay of 1082 days ha occurred in filing the present appeal by the acquiring body. Learned Counsel submitted that in making the procedural compliances, the delay has been caused, but it is unintentional. The learned Counsel further submitted that there are genuine objections raised in exception to the impugned Award and as such, the acquiring body needs to be given opportunity to contest the matter on merits.

3) Shri Narwadkar, learned Counsel, has opposed for condoning the delay, contending that the reasons assigned are insufficient for condoning the delay.

4) On perusal of the contents of the application, it appears to me that the delay has been sufficiently explained and the Acquiring body needs to be given opportunity to contest the matter on merits.

5) In view of the above, the delay caused in filing the appeal is condoned. The appeal be registered in accordance with law. CA for condonation of delay stands disposed of.

6) After registration of the appeal, issue notice of appeal to the respondents, returnable after six weeks. The learned Counsel for the respective parties waive notice. Service is complete.

7) Heard the learned Counsel for the parties on application for withdrawal of the amount. Considering the contents of the application and having regard to the grounds of objections raised by the acquiring body in exception to the impugned Award, I deem it appropriate to pass the following order, -

- a) The applicant/original claimant is permitted to withdraw 60% of the deposited amount on submitting an undertaking that in the event any adverse order is passed or the appeal is allowed and the amount of compensation is modified, the claimant will re-deposit the amount, if so ordered within four months of passing such order.
- b) Balance 40% amount be invested in Fixed Deposit Receipt in any Nationalized Bank initially for three years and if so required for further period till disposal of the appeal.
- c) CA for withdrawal of the amount stands disposed of.

(P.R.BORA)
JUDGE

bdv/