

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

910 CIVIL APPLICATION NO.5328 OF 2016
IN
FIRST APPEAL ST/11203/2016
WITH
CA/5318/2016 IN FAST/11137/2016 WITH CA/5319/2016
IN FAST/11137/2016 WITH CA/5320/2016 IN
FAST/11206/2016 WITH CA/5321/2016 IN
FAST/11206/2016 WITH CA/5322/2016 IN
FAST/11197/2016 WITH CA/5323/2016 IN
FAST/11197/2016 WITH CA/5325/2016 IN
FAST/11200/2016 WITH CA/5326/2016 IN
FAST/11200/2016 WITH CA/5329/2016 IN
FAST/11203/2016 WITH CA/5330/2016 IN
FAST/11191/2016 WITH CA/5331/2016 IN
FAST/11191/2016 WITH CA/5332/2016 IN
FAST/11194/2016 WITH CA/5333/2016 IN
FAST/11194/2016 WITH CA/5334/2016 IN
FAST/11188/2016 WITH CA/5335/2016 IN
FAST/11188/2016

THE STATE OF MAHARASHTRA
VERSUS
SHRIHARI GANGARAM CHATE AND ANR

...

Advocate for Applicant : Mr. SN Morampalle, AGP
Mr. V.V.Bhavthankar, Adv. For R/1.

CORAM : P.R.BORA, J.

DATE : 17th November, 2016.

PER COURT :

1) Heard learned AGP appearing for the
appellant – State and learned Counsel appearing
for respondent – original claimant.

2) The present applications are filed seeking condonation of delay of 3628 days which has occurred in filing the present appeals. A common judgment, which is impugned in the present appeals was passed on 27th January, 2006. As is revealing from the contents of the application, a proposal was forwarded seeking approval for filing an appeal to the Law & Judiciary Department and such approval was received from the Law & Judiciary Department on 30.12.2013.

. It is further contended that thereafter in drafting the appeal, seeking necessary documents, charts and procuring the amount of court fees, some time was consumed and ultimately, the appeals came to be filed on 2.11.2016. It is further contended that the delay has caused because of making procedural compliances.

3) Shri Morampalle, learned AGP, submitted that there are valid ground of objections raised in exception to the common judgment and Award and

as such, opportunity needs to be given to the State to contest the matters on merits.

4) The applications are strongly opposed by Shri Bhavthankar, learned Counsel, who is appearing for the respondents in all these matters, who are the Original claimant/s in the respective Reference Applications. The learned Counsel submitted that inordinate delay of more than 10 years has not been sufficiently explained and without any cogent reasons, the same cannot be condoned. The learned Counsel further submits that though the impugned judgment is passed in the year 2006, till today, the State has not deposited a single paise in compliance of the said Award and the respondents claimants have not yet received the amount of compensation so awarded by the Reference Court.

5) On consideration of the submissions made by the learned Counsel appearing for the parties, and more particularly on perusal of the

application for condonation of delay, I am not inclined to allow the present applications for the following reasons.

6) Though the Award is passed on 27th January, 2006 and it is the contention of the appellant that official approval for filing the appeals was received from Law & Judiciary Department on 30th December, 2013, it is nowhere stated or no particulars are provided as to when the proposal was forwarded to the Law & Judiciary Department seeking approval for filing an appeal. The long period of seven years has remained unexplained. Further, there is absolutely no explanation as to why the period of three years was required in preferring an appeal after the approval from Law & Judiciary Department was received. It cannot be accepted that for securing documents, charts and court fees etc., the period of three years will be required. In absence of cogent and sufficient reasons the inordinate delay of about ten years, cannot be

condoned.

7) The Apex Court in the matter of **Pundlik Jalam Patil Vs. Ex.Engg.Jalgaon Medium Project and Ors., 2008(6) BCR 513** has held that unless and until sufficient cause is shown, inordinate delay should not be condoned.

8) 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 officer/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 cause injury to public interest.

9) Our High Court 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) Recently, 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 be rejected.

11) Even otherwise on merits also, I do not see that any case is made out in favour of the applicants/appellant. The Special Land Acquisition Officer (for short, SLAO) has awarded compensation @ Rs.5,600/- per acre. The claimants were claiming compensation @ Rs.30,000/- per acre and on the basis of the evidence brought before it, the Reference Court has determined the market value of the acquired lands @ Rs.14,000/- per acre and has accordingly enhanced the amount of compensation.

12) After having gone through the impugned judgment, it does not appear to me that the Reference Court has committed any error in determining the market value of the acquired lands.

13) For the aforesaid reasons, the applications for condonation of delay are rejected. Consequently, the appeals which are on stamp numbers are also dismissed. Pending Civil Application/s if any stands disposed of.

(P. R. BORA)
JUDGE

bdv/