

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

**12 CIVIL APPLICATION NO. 11121 OF 2016
IN FAST/21578/2016 WITH CA/11122/2016 IN
FAST/21578/2016**

THE EXECUTIVE ENGINEER, ZILLA PARISHAD, MINOR
IRRIGATION DEPARTMENT (SOUTH), AHME
VERSUS
THE STATE OF MAHARASHTRA AND ORS

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Advocate for Applicant : Mr. Shelke Shivaji T.
Mr. SN Morampalle, AGP for Respondent:1;
Mr. Nangare Prashant R., Adv. For R/2 To 4, 5A
to 5H.

CORAM : P.R.BORA, J.

DATE : 7th December, 2016.

PER COURT :

1) Heard. Delay of 1736 days has occurred in filing the present appeal by the acquiring body. Shri Shelke, learned Counsel appearing for the acquiring body, submits that in making the procedural compliances and seeking sanctions at different levels some time was consumed and that is the reason that the appeal could not be filed within the stipulated period of limitation. The learned Counsel, therefore, prayed for condoning

the delay.

2) The learned Counsel appearing for the original claimants has opposed for condoning the delay.

3) Considering the reasons assigned in the application, I am, however, inclined to condone the delay. The delay caused in filing appeal is condoned. The appeal be registered in accordance with law. After registration of the appeal, issue notice to the respondents. Learned Counsel waives service for the respondent – original claimants. Service complete.

4) With the consent of learned counsel for the parties the appeal is taken up for final disposal at the admission stage.

5) The learned Counsel appearing for the appellant i.e. acquiring body submitted that the Reference Court has manifestly erred in placing

implicit reliance on the sale instances placed on record by the claimants though the said sale instances cannot be held to be of comparable lands. The learned Counsel submitted that the Special Land Acquisition Officer had considered several sale instances and by visiting the acquired lands, had determined the market value of the acquired lands and the same must have been maintained by the Reference Court. The learned Counsel, therefore, prayed for setting aside the impugned Judgment and Award and to re-determine the amount of compensation accordingly.

6) The learned Counsel for the respondents — original claimants supported the impugned Judgment and Award. The learned Counsel, inviting my attention to the observations made by the Reference Court in paras 22 and 25 of the impugned judgment, submitted that the sale instances which were relied upon by the claimants were definitely of comparable lands. The learned Counsel further submitted that considering the

material on record and assessing the plus and minus factors attached to the acquired lands, the Reference Court has rightly determined the market value of the acquired lands. The learned Counsel submitted that there is no substance in the appeal and it be dismissed accordingly.

7) I have carefully perused the impugned judgment. In Para 21 of the impugned judgment, the Reference Court has appropriately discussed the evidence as regards to the sale instances brought on record. The discussion made by the Reference Court reveals that the sale instances which were placed on record were of comparable lands. Moreover, the witness was also examined by the claimants to prove one of such sale-deeds. The lands, which were the subject matter of the sale instance placed on record had averagely received consideration @ Rs.1,000/- per Are. Having considered the evidence on record, it does not appear to me that the Reference Court has determined the market value on higher side or

contrary to the evidence on record. Even in appeal, no such material is placed on record so as to take any contrary view, as has been taken by the Reference Court. The appeal is devoid of any substance and deserves to be dismissed and is accordingly dismissed, however, without any order as to costs. Pending civil application, if any, stands disposed of.

(P. R. BORA)
JUDGE

bdv/