

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1) CA NO.5722 of 2015gr

**19 CIVIL APPLICATION NO. 5722 OF 2015
IN FAST/21216/2014**

WITH

CA/5724/2015 IN FAST/21370/2014

WITH

CA/5726/2015 IN FAST/21378/2014

WITH

CA/5728/2015 IN FAST/21359/2014

WITH

CA/5730/2015 IN FAST/21365/2014

WITH

CA/5732/2015 IN FAST/21390/2014

WITH

CA/5734/2015 IN FAST/21386/2014

WITH

CA/5736/2015 IN FAST/21374/2014

WITH

CA/5738/2015 IN FAST/21381/2014

EXECUTIVE ENGINEER LATUR MEDIUM PROJECT DIVISION
LATUR AND OTHERS

VERSUS

ANNASAHEB BAPURAO YADAV

...

Advocate for Applicants : Mr.Surwase B.R.
Mr.Patil Mahesh S., Adv.,for respondent /sole.

...

CORAM : P.R. BORA, J.
Dated: August 12, 2016

...

PER COURT :-

1. In all these matters delay of 1793 days has occurred in filing the present appeals. Shri B.R.Surwase, learned Counsel appearing for appellants / applicants, submitted that in the present appeals, the impugned -

AGP/-

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(2) CA NO.5722 of 2015gr

award is challenged only to the extent of the interest awarded by the Reference Court under Section 34 of the Act from the date of possession, and not from the date of the award. Learned Counsel submitted that after it was noticed that the interest under Section 34 of the Act has been wrongly awarded by the Tribunal from the date of possession, it was decided to contact the respective claimants and to seek response from them whether they are ready to waive the interest wrongly awarded so that the appellant need not to file the appeals and to make the payment of other compensation for which the claimants were entitled. Learned Counsel submitted that since, after repeated efforts also, no response was received from the claimants, after obtaining legal opinion in this regard and after making all procedural compliances, the appeals are filed. Learned Counsel submitted that the delay is un-intentional and for the reasons stated in the applications, which are genuine.

2. Shri M.S.Patil, learned Counsel appearing for the original claimants in all these matters, has opposed for condonation of delay stating that the reasons are insufficient and on such grounds, delay cannot be condoned.

AGP/-

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(3) CA NO.5722 of 2015gr

3. In view of the fact that the appellants have restricted their appeals only to the extent of award of interest by the Reference Court under Section 34 of the Act from the date of possession, it appears to me that an opportunity needs to be given to the appellants to contest their appeals on merit. Moreover, I do not see any reason to disbelieve the facts stated in the application that an attempt was made to contact the respective claimants and further an attempt was made to persuade them to waive the interest which was wrongly awarded by the Reference Court. In the circumstances, I am inclined to allow the present applications for condonation of delay. Hence, following order:

ORDER

- 1) The Civil Applications are allowed. The delay caused in filing the appeals is condoned. Civil Applications stand disposed of.
- 2) The appeals be registered in accordance with law.
- 3) Issue notice to the respondents in the First Appeals returnable after two weeks. Learned Counsel Mr.M.S.Patil waives service for original claimants in all the matters. Place the appeals for admission after two weeks.

(P.R. BORA, J.)