

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

CIVIL APPLICATION NO.:1503 OF 2016
IN
FIRST APPEAL STAMP NO.:25404 OF 2015

GANESH DADASAHEB, DIED THROUGH LRS AND ANOTHER
VERSUS
THE SPECIAL LAND ACQUISITION OFFICER,
JAIKWADI PROJECT AURANGABAD

Mr. S. K. Adkine, Advocate for Applicant.
Mr. A. M. Phule, A.G.P. for Respondent.

CORAM : **P. R. BORA, J.**
DATE : 05th August, 2016.

ORDER:

. The delay of 3334 days has occurred in filing the appeal by the present Applicants against the judgment and award passed in LAR No.369 of 1999. The delay is sought to be condoned on the ground that after the subject land was acquired by the Government, the Applicants had become landless and consequently have lost their only source of income and were living in poverty and could not arrange for necessary funds so as to prefer an appeal.

2 The State has strongly opposed for condoning the delay. In the affidavit in reply filed on behalf of Respondent No.1, it is stated

that the amount of compensation as determined by the SLAO was immediately made available to the Applicants, and as such, the reason stated that there was no financial provision for filing the appeal cannot be accepted. Reliance is also placed on certain judgments in oppose to the request for condonation the delay.

3 The learned for the Applicants has relied upon the judgment of the Honourable Apex Court in the case of **State of Karnataka Vs. Y. Moideen Kunhi (dead) by LRs. and Ors**, reported in **[AIR 2009 Supreme Court 2577]** and the orders passed by this Court in Civil Application No.2390 of 2013 in First Appeal (Stamp) No.4830 of 2013 on 6th December, 2013, as well as in Civil Application No.14808 of 2013 in First Appeal (Stamp) No.32688 of 2013, on 10th January, 2014. The learned counsel pointed out that the Honourable Apex Court in the cited judgment had condoned the delay of 6500 days, whereas this Court in Civil Application No.14808 of 2013, had condoned the delay of 6659 days. The learned counsel submits that the Applicants are undertaking not to claim any interest of the period of delay, which has caused in the event the appeal filed by them is allowed and the amount of compensation gets enhanced. The learned counsel submits that the Applicants need to be given an opportunity to contest the matter on merits.

4 After having considered the submissions advanced by the learned counsel appearing for the respective parties and on going through the judgments relied upon by the respective parties, it does not appear to me that any case is made out by the applicants for condoning the delay, which has occurred in filing the present appeal. Though it is true that in the matter relied upon by the learned counsel for the Applicants, the Honourable Supreme Court has condoned the delay of 6500 days, the facts in the said case are quite distinguishable. As is revealing from the discussion made in the said matter, 4000 Acres of land was acquired out of which 3500 Acres of land was of the forest and the said issue was not properly dealt with and that was the reason that the delay was condoned. In so far as orders passed by this Court, which are relied upon by the Applicants, though I do not dispute the view taken by the learned Single Judges of this Court in the aforesaid matters, in absence of further particulars as to on what basis the said delay was condoned, I am unable to follow the same course. In so far as the present matter is concerned, the reasons, which are stated for occurrence of delay are not at all justifiable and on such grounds, the delay cannot be condoned. The delay caused is of the period of about 9 years and in absence of any plausible explanation for occurrence of such huge delay, I am not inclined to

allow the present application. Hence, the following order :

ORDER

The civil application stands rejected.

Consequently, the appeal on stamp also shall stand dismissed.

[P. R. BORA, J.]

ndm