

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

901 CIVIL APPLICATION NO. 15423 OF 2016
 IN FAST/3159/2016 WITH CA/1432/2016 IN FAST/2942/2016 WITH
 CA/1433/2016 IN FAST/2942/2016 WITH CA/1434/2016 IN
 FAST/3159/2016 WITH CA/1435/2016 IN FAST/3159/2016 WITH
 CA/1436/2016 IN FAST/3150/2016 WITH CA/1437/2016 IN
 FAST/3150/2016 WITH CA/1440/2016 IN FAST/3156/2016 WITH
 CA/1441/2016 IN FAST/3156/2016 WITH CA/1442/2016 IN
 FAST/3162/2016 WITH CA/1443/2016 IN FAST/3162/2016 WITH
 CA/1444/2016 IN FAST/3165/2016 WITH CA/1445/2016 IN
 FAST/3165/2016 WITH CA/1446/2016 IN FAST/3168/2016 WITH
 CA/1447/2016 IN FAST/3168/2016 WITH CA/1448/2016 IN
 FAST/3171/2016 WITH CA/1449/2016 IN FAST/3171/2016 WITH
 CA/1450/2016 IN FAST/3174/2016 WITH CA/1451/2016 IN
 FAST/3174/2016 WITH CA/15426/2016 IN FAST/3150/2016 WITH
 CA/15429/2016 IN FAST/2942/2016 WITH CA/15430/2016 IN
 FAST/3156/2016 WITH CA/15431/2016 IN FAST/3174/2016 WITH
 CA/15432/2016 IN FAST/3168/2016 WITH CA/15433/2016 IN
 FAST/3165/2016 WITH CA/15434/2016 IN FAST/3162/2016 WITH
 CA/15436/2016 IN FAST/3156/2016 WITH CA/15438/2016 IN
 FAST/3171/2016 WITH CA/15439/2016 IN FAST/3174/2016

DHANJI RAMJI GORE
 VERSUS
 THE EXECUTIVE ENGINEER, NANDUR MADHMESHWAR CANAL
 DIV.VAIJAPUR AND ANR

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Advocate for Applicant : Gunale V.d.
 AGP for Respondents: U.H. Bhogale
 Advocate for Respondents : R.D. Biradar For R/1

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CORAM : P.R. BORA, J.
DATE : 08-12-2016.

P.C. :

1. Heard Shri R.D. Biradar, the learned counsel appearing for the appellant-acquiring body. Delay of 1735 days has occurred in filing the present appeals. Shri R.D. Biradar, the learned counsel appearing for the acquiring body submits that, in making procedural compliances and seeking sanctions at different levels the time was

consumed and that is the reason appeals could not be filed within the stipulated period of limitation.

2. Shri V.D. Gunale, the learned counsel appearing for the respondents i.e. original claimants in all these matters has opposed for condoning the delay stating that the inordinate delay has not been properly explained and without any just and sufficient cause the delay cannot be condoned. The learned counsel, therefore, prayed for rejecting the application. In the alternative learned counsel submitted that, if the acquiring body is ready to argue the matter immediately after condonation of delay today itself, the claimants may not have any objection for condoning the delay, since several years have lapsed after acquisition and the claimants are deprived of the amount of compensation. Shri Biradar, thereafter, submitted that he is ready to argue the matter today itself on merits.

3. In view of the submissions so made, the delay caused in filing the appeals is condoned. Appeals be registered in accordance with law. Civil applications stand disposed of.

4. Issue notice to the respondents, Shri V.D. Gunale waives service for the respondents i.e. original claimants. With consent of the learned counsel appearing for the parties, the appeals are finally heard at the admission stage. In view of the fact that, all these appeals are arising out of common a judgment and

award, I have heard the common arguments and I deem it appropriate to decide all these appeals by common a reasoning.

5. Shri R.D. Biradar, the learned counsel appearing for the acquiring body has assailed the impugned judgment on the ground that, the reference court without there being any sufficient evidence on record has determined the amount of compensation on higher side. The learned counsel submitted that, the observations made by the reference court in para 14 onwards of the judgment reflect that, the valuer has not provided the adequate particulars which were required for determination of the market value of the acquired houses, and despite of that the reference court has on approximate basis enhanced the compensation arbitrarily on higher side. The learned counsel, therefore, submitted for setting aside the impugned judgment and award.

6. Shri V.D. Gunale, the learned counsel appearing for the respondents i.e. original claimants has supported the impugned judgment. The learned counsel submitted that a well reasoned order has been passed by the reference court and no interference is warranted in the order so passed. The learned counsel further submitted that, in all these matters the enhanced compensation is of few thousands of rupees and, as such, no interference may be caused in the impugned judgment and award.

7. I have carefully considered the submissions advanced

by the learned counsel appearing for the respective parties. I have also perused the impugned judgment. Admittedly, the only evidence which was before the reference court was adduced by the claimants. The acquiring body did not adduce any oral evidence nor placed on record any sale instance so as to determine the market value of the acquired house properties on that basis. On perusal of the judgment, it reveals that the reference court has appropriately discussed the evidence brought on record and has accordingly determined the amount of compensation. I do not find any error apparent on the face of the record, so as to cause interference in the impugned judgment and award. The contentions raised by the appellant that, the compensation has been unreasonable enhanced also cannot be accepted in view of the fact that in most of the matters the enhanced amount of compensation is of few thousand rupees only and in few matters the enhanced compensation exceeds to Rs. 35,000/- to Rs. 45,000/-. It does not appear to me that, after long lapse of period it may be appropriate to cause any interference in the awards so passed. The appeals being devoid of any substance deserve to be dismissed and are accordingly dismissed, however, without any orders as to the costs. Pending civil applications, if any, also stand disposed of.

8. Heard. The applications for bringing legal heirs on record is allowed in terms of prayer clause 'B'.

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(P.R. BORA)
JUDGE