

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 2484 OF 2016
IN FAST/32808/2015
SHAIKH RABBANI SHAIKH MAHEBOOB
VERSUS
THE SPECIAL LAND ACQUISITION OFFICER, AURANGABAD AND OTHERS
WITH
CA/2472/2016 IN FAST/32889/2015 WITH
CA/2473/2016 IN FAST/32893/2015 WITH
CA/2474/2016 IN FAST/32897/2015 WITH
CA/2475/2016 IN FAST/32901/2015 WITH
CA/2476/2016 IN FAST/32903/2015 WITH
CA/2477/2016 IN FAST/32907/2015 WITH
CA/2478/2016 IN FAST/32909/2015 WITH
CA/2479/2016 IN FAST/32911/2015 WITH
CA/2480/2016 IN FAST/32905/2015 WITH
CA/2481/2016 IN FAST/32887/2015 WITH
CA/2482/2016 IN FAST/32899/2015 WITH
CA/2483/2016 IN FAST/32913/2015 WITH
CA/2599/2016 IN FAST/35113/2015

Mr. G.S. Patil, Advocate for the applicants.
Mr. S.P. Sonpawale, A.G.P. for respondent/State.
Mr. A.R. Nikam & Mr. A.K. Muley, Advocates for respondents.

CORAM : A.V.NIRGUDE, J
DATED : 25.08.2016

P.C. :-

1. The applicants are seeking condonation of delay of more than 15 years caused for filing First Appeals against judgment and award of Reference Court dated 28.07.2000.

2. The civil applications are staunchly opposed by the respondents, by filing affidavit. Learned Counsel for the

respondents suggested that the delay should not be condoned, because the applicants are not diligent litigants.

3. The Reference Court awarded certain enhanced compensation to the applicants, but thereafter the applicants did not take any steps to challenge the Reference Court's order. They simply slept over their right to file First Appeal. In the meantime similarly placed litigants came to this Court and challenged the Reference Court's order. They succeeded in the First Appeals and obtained certain enhanced compensation. The matters were then taken to the Supreme Court, but the Supreme Court confirmed the order of this Court. All this was happening from year 2000 to 2015. Some first appeals were pending before this Court and were disposed of in September, 2015. The enhancement was awarded in view of the fact that the Supreme Court had dismissed earlier Special Leave Petitions. It is, thereafter, in 2016, present applicants came with their appeal memos. They are now seeking rather belatedly enhancement on the amount of compensation.

4. Similar question came before the Supreme Court in the case of Imrat Lal & Ors. Vs. Land Acquisition Collector and Ors., (2014) 14 S.C.C.133. The facts were almost similar, but the delay was of about three years. The Supreme Court took judicial note of the fact that villagers of our country are by and large illiterate and not conversant with intricacies of law. Therefore, the Court should adopt liberal approach while deciding delay condonation

applications. The Supreme Court also placed reliance on previous judgment in the case of **Samiyathal Vs. Tahsildar (Civil Appeal No.5335 of 2013 decided on 05.07.2013)**, wherein the Supreme Court observed as under :-

"We further direct the respondents and the State of Tamil Nadu to pay the same amount of compensation to other landowners whose land was acquired by the Notification dated 22.05.1991, but who may have on account of ignorance, poverty and other similar handicaps, not been able to approach the Reference Court or may not have been able to contest the matter before the High Court and this Court. The needful be done in respect of other landowners within a period of six months. This direction has been given in exercise of the power vested in this Court under Article 142 of the Constitution."

5. Though above quoted portion indicates that certain direction was given by the Supreme Court in exercise of powers vested in the Supreme Court under Article 142 of the Constitution, one must realize that the litigants whose lands are acquired are required to be treated as victims and should be provided all possible help.

6. In my view right of filing of appeal in regular civil case is little different than right of filing appeal against land acquisition awards, though provisions of Section 5 of the Limitation Act is applicable to both the cases. When a litigant in Civil case comes belated in Appellate Court challenging judgment of the lower Court, the Appellate Court would take into account the prejudice that is likely to be caused to the opponent. In such case the

parameters of condoning the delay are obviously different.

7. I am, therefore, inclined to condone the delay on condition that the applicants, if they succeed in these appeals, should not claim interest on the amount from the date of impugned judgment i.e. 27th July, 2000 till today.

8. The Civil Applications are allowed subject to aforesaid condition. The First Appeals be registered. The record and proceedings be called for within two weeks. There is possibility of disposal of appeals at admission stage.

[A.V.NIRGUDE, J.]