

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Civil Application (CAF) No.2436 of 2014

In

First Appeal Stamp No.9848 of 2014

(Pandurang Ganpat Kharde v. The State of Maharashtra, through Collector,
Buldhana, and another)

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's order

Court's or Judge's orders

Shri D.M. Surjuse, Advocate for Applicant.

Smt. M.N. Hiwase, AGP for Non-Applicant No.1/State.

Coram : R.K. Deshpande, J.

Date : 5th January, 2016

Civil Application (CAF) No.2426 of 2014 :

This application seeks condonation of delay of 3270 days caused in filing the first appeal under Section 54 of the Land Acquisition Act, 1894 seeking enhancement of compensation awarded by the Reference Court in Land Acquisition Case No.224 of 2000 decided on 24-2-2005.

The Land Acquisition Officer awarded the compensation at the rate of Rs.60,000/- per hectare for the acquired land, and Rs.1,097/- per fruit-bearing tree. The Reference Court did not grant any enhancement under Section 18 of the Land Acquisition Act.

In the application for condonation of delay, it is stated

that the appellant had filed an application for review of the judgment and order of the Reference Court dated 24-2-2005, which was within a period of limitation, and it was dismissed on 18-7-02009. The appellant received the amount of compensation in the month of October 2010, and in April 2014, the present appeal has been preferred. It is further stated that on 30-8-2013, the Reference Court decided the other cases of compensation arising out of the same notification, being Land Acquisition Case Nos.10 of 2002 and 74 of 2002, on 30-8-2013 and 26-9-2013. It is held in the said cases that the claimants are entitled to the compensation of Rs.2,05,000/- per hectare of land, whereas for fruit-bearing trees, the compensation awarded was at the rate of Rs.3,182/- for per fruit-bearing tree. The appellant applied for the certified copy of the said judgment and order on 11-2-2014, the same was received on 6-3-2014, and accordingly on 25-4-2014, this appeal is filed along with the application for condonation of delay.

In the decision of the Apex Court in the case of *Imrat Lal and others v. Land Acquisition Collector and others*, reported in 2014(9) SCALE 446, it has been held in paras 12 to 15 as under :

“12. While we agree with Shri Narender Hooda that the averments contained in the application for condonation of delay were extremely vague and did not provide satisfactory explanation for the long delay of 1110 days, but it cannot be

ignored that in identical matters another learned Single Judge had granted relief to the landowners by enhancing the compensation and this factor should not have been overlooked by the learned Single Judge while deciding the application for condonation of delay.”

“13. We can take judicial notice of the fact that villagers in our country are by and large illiterate and are not conversant with the intricacies of law. They are usually guided by their co-villagers, who are familiar with the proceedings in the Courts or the advocates with whom they get in touch for redressal of their grievance. Affidavits filed in support of the applications for condonation of delay are usually drafted by the advocates on the basis of half baked information made available by the affected persons. Therefore, in the acquisition matters involving claim for award of just compensation, the Court should adopt a liberal approach and either grant time to the party to file better affidavit to explain delay or suo motu take cognizance of the fact that large number of other similarly situated persons who were affected by the determination of compensation by the Land Acquisition Officer or the Reference Court have been granted relief.”

“14. In Civil Appeal Nos.5335-5336 of 2013 titled

Samiyathal and others v. Special Tahsildar and others decided on 5.7.2013, this Court took cognizance of the fact that many landowners may not have been able to seek intervention of this Court for grant of enhanced compensation due to illiteracy, poverty and ignorance and issued direction that those who have not filed special leave petition should be given enhanced compensation. The relevant portion of the judgment passed in that case is extracted below:

“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 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.”

“15. In view of the above discussion, the appeal is allowed, the impugned order is set aside and the delay in

filing RFA No.5477/2011 by the appellants is condoned.”

In view of the aforesaid law laid down by the Apex Court, and the facts of the present case being similar, the delay of 3,270 days caused in filing an appeal, is required to be condoned, more particularly when the acquired body has preferred First Appeal Stamp No.2391 of 2014 challenging the decision of the Reference Court in Land Acquisition Case Nos.10 of 2002 and 74 of 2002, which is pending for adjudication on merits.

This matter can be heard along with the said First Appeal Stamp No.2391 of 2014. It is, however, required to be made clear that the appellant-claimant shall not be entitled to an amount of interest on the enhanced compensation, if any, granted by this Court from the date of the judgment and order passed by the Reference Court, i.e. 24-2-2005, till today.

The civil application is allowed. The delay of 3,270 days caused in filing the first appeal, is condoned.

The civil application is disposed of.

First Appeal Stamp No.9848 of 2014 :

Heard the learned counsels appearing for the parties on the merits of the appeal.

Admit.

Smt. M.N. Hiwase, the learned AGP, waives service of notice for the respondent No.1, and Shri S.G. Jagtap, the learned

counsel, waives service of notice for the respondent No.2.

Call for R & P.

To be heard along with First Appeal Stamp No.2391 of
2014.

Judge.

Lanjewar