

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

Civil Application (CAF) No.1730 of 2014

In

First Appeal Stamp No.12849 of 2014

(The Executive Engineer, Lower Wardha Canal Division, VIDC, Wardha v.
Shankar Ganpatrao Kuthe and others)

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

Shri S.S. Godbole, Advocate for Applicant/Appellant.

Smt. Rajkumari Rai, Advocate for Respondent Nos.1 to 4.

Shri M.A. Kadu, AGP for Respondent No.5.

Coram : R.K. Deshpande, J.

Date : 14th March, 2016

There is a delay of more than 3,500 days caused in filing an appeal under Section 54 of the Land Acquisition Act, 1894 by the Vidarbha Irrigation Development Corporation (VIDC), the acquiring body. The undisputed factual position is that on 6-4-1995, the notification under Section 4 of the said Act was issued for acquisition of land for Lower Vena Project. The notification under Section 6 of the said Act was issued on 26-10-1995 and the award was passed on 30-4-1997 granting compensation at the rate of Rs.47,036/- per hectare. In the month of June, 1997, a reference under Section 18 of the said Act was preferred, and by the judgment and order dated 31-7-2004, the Reference Court has enhanced the compensation to

Rs.1,85,000/- per hectare in Land Acquisition Case No.25 of 1999.

The explanation furnished in this application for condonation of delay is that in the month of November, 1997, the appellant-VIDC was constituted and it took over the Project in question from the State Government. Thus, the appellant-VIDC became the acquiring body in the month of November, 1997. All the steps, including that of passing of the award and making the application for reference under Section 18 of the said Act, were complete on the date of VIDC taking over the project.

In view of this, the question that the VIDC, the acquiring body, was not the party in the proceedings of reference, loses its significance. The VIDC claims that for the first time it came to know of the enhancement of compensation on 12-7-2013, when the Special Land Acquisition Officer made the demand for payment of the amount of enhanced compensation awarded by the Reference Court and thereafter the appeal along with the application for condonation of delay was filed on 4-7-2014. The Reference Court granted the enhancement on the basis of the sale-deed executed prior to issuance of Section 4 notification in respect of dry crop land. The land in question is an irrigated land. The period of 10 years has already lapsed from the date of passing of the judgment and order by the Reference Court.

Thus, I do not find that any sufficient cause is made out for condonation of delay.

The civil application is dismissed.

Judge.

Lanjewar