

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

CIVIL APPLICATION (CAF) NO.498 OF 2016
AND
FIRST APPEAL ST. NO. 19760 OF 2015
(EXECUTIVE ENGINEER BEMBLA PROJECT DN.....VS..SANJAY JAGANNATH
MOHAKAR & OTH.)

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

Court's or Judge's orders

Shri Anoop Parihar, advocate for Appellant.
Shri D.R.Upadhay, adv. h/f. Shri S.U. Nemade, adv. for Resp. No.1
Shri M.A.Kadu, A.G.P. for Respondent No.2 & 3.

CORAM : Z.A.HAQ, J.

DATED : SEPTEMBER 20, 2016.

Heard.

As there is delay of about 598 days in filing the appeal, this application praying for condonation of delay is filed.

Pursuant to the notification under Section 4 of the Land Acquisition Act, 1894 published on 5th October, 2010, 1.25 hectare land owned by the respondent No.1-claimant was acquired. The Land Acquisition Officer granted compensation @ Rs.88,178/- per hectare along with statutory benefits. On reference under Section 18 of the Land Acquisition Act, 1894, the amount of compensation is determined at Rs.2,20,000/- per hectare along with statutory benefits.

The reference Court has relied on the award passed in Land Acquisition Case No. 288 of 2006 by which compensation payable to the claimant in those proceedings was determined at Rs.1,10,000/- per hectare for Jirayat land. The land which was subject matter of Land Acquisition Case No. 288 of 2006 was acquired pursuant to the notification under Section 4 of the Land Acquisition Act, 1894 published on 15th June, 2001 for the same project. After considering the documentary evidence on record (Exhs.58, 59 and 60), the reference Court has concluded that the land of the respondent No.1 / claimant which is acquired was irrigated land and therefore, the amount of compensation is determined @ Rs.2,20,000/- per hectare.

The delay in filing the appeal is explained in paragraph 2 of the application as follows :

“2. That the above judgment and award came to be passed on 20.09.2013. The application for the certified copy of the same was made on 1.10.2013 and the same was received on 20.11.2013. It is submitted that the certified copy of the said impugned judgment and award was received in the office of the Jurisdictional Executive Engineer of the Appellant Corporation from the Counsel on 13.12.2013. It is submitted that thereafter the said Executive Engineer opined to file appeal on 15.2.2014 and all the relevant documents pertaining to the present case were submitted in the office of the appellant Corporation for its approval on 15.09.2014. It is submitted that after seeking necessary legal advice and taking into consideration all the relevant documents, the appellant corporation on 9.12.2014 decided to challenge the aforesaid Judgment and award dated 20.9.2013 by filing the instant appeal in this Hon'ble Court.”

The manner in which the matter is handled by the officials shows that the officials had not been vigilant in prosecuting the matter. The explanation given on behalf of the appellant cannot be said to be sufficient to condone the inordinate delay in filing the appeal.

The application is **dismissed**. Consequently, the first appeal is rejected.

In the circumstances, the parties to bear their own costs.

JUDGE

RRaut..

CERTIFICATE

I certify that this order uploaded is a true and correct copy of original signed order.

Uploaded by : R.B. Raut, PS

Uploaded on : 21/09/2016.