

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

CIVIL APPLICATION NO. 975 FOR 2016
IN
CIVIL REVISION [STAMP] APPLICATION NO. 314 OF 2016

Tulshiram s/o Naroba Devkatte,
deceased, through legal representatives:

- | | | |
|----|--------------------------------------|---------------|
| 1. | Ram s/o Tulshsiram Devkatte and anr. | .. Applicants |
| | versus | |
| | The State of Maharashtra and ors. | .. Respondent |

Mr. Ankush N. Nagargoje, Advocate for applicants
Mr. S. K. Tambe, Asstt. Govt. Pleader for respondent

CORAM : SUNIL P. DESHMUKH, J.
DATE : 17th February, 2017

ORDER :

1. This civil application by applicants is seeking condonation of delay of about 2136 days in filing civil revision application against decision given by the Civil Judge, Senior Division, Latur on 30-11-2009 dismissing land acquisition reference no. 558 of 2001 (old L.A.R. No. 405/1994) which had been lodged by their father-original claimant Tulshiram against land acquisition award passed by the Special Land Acquisition Officer for acquisition of their land.

2. The land acquisition reference had been originally filed in 1994 bearing No. 405/1994 which had been renumbered as 558 of 2001. However, subsequently, original claimant-predecessor

of present applicants died in 2003. The present applicants were unaware of the proceedings lodged by their deceased father and consequently about progress in respect of the matter.

3. After death of applicants' father in 2003, it appears, the land acquisition reference had been decided in 2009 referring to that no evidence had been led by the claimants. It appears, while taking stock of the articles of father and past events, the proceedings in respect of acquisition of applicants' land being prosecuted by their predecessor and pending, had been noticed and realised. Further efforts revealed aforesaid land acquisition reference being filed and dismissed for want of evidence in 2009.

4. Learned counsel Mr. Nagargoje appearing on behalf of the applicants-claimants submits that it is under aforesaid circumstances the delay has occurred. The same is neither intentional nor deliberate. He further, on instructions, submits that the reasons given are under the circumstances as have been referred to in the application and are genuine. The applicants do not intend to derive any unworthy benefits from the same. He, on instructions, states that the applicants would waive interest for the period from 2003 i.e. from the date of death of their predecessor to the date of lodging of this application i.e. 10-12-2015.

5. Mr. Tambe, learned Assistant Government Pleader, on behalf of the respondent, however, submits that there is a huge delay of 2136 days in making the application and further that the reasons do not appear to be credible, for, original claimant died in 2003 and the land acquisition reference was dismissed in 2009 and now an excuse is being given of account being taken of past events and in that it occurred that some proceedings in respect of land acquisition had surfaced. It is very difficult to believe that there is any merit in such a contention.

6. Although it is being so submitted by learned Assistant Government Pleader, it would have to be given attention to that the applicants have not only given the circumstances and the reasons under which delay has occurred but have further fairly referred to that they do not want to derive any illegitimate benefit from the delay which has occurred and as such have shown their willingness to give up interest for the period from the date of death of their father to the date of lodging present application. This approach of the applicants, to quite a large extent, indicates substance in the contents of the application under which delay is stated to have been caused.

7. In the circumstances, keeping at the back of the mind the guidelines given by the apex court in the case of *Collector, Land Acquisition, Anantnag vs. Mst. Katiji and others*, reported in AIR 1987

SC 1353, it would be expedient to grant the application and condone the delay.

8. In the circumstances, delay in filing civil revision application stands condoned with a rider that while the merits of the civil revision application would be considered, the willingness to waive interest for the period as has been referred to above would be taken into account, and the applicants shall pay costs of Rs.5,000/-. The costs be deposited in this court within a period of four weeks from today.

9. Civil application thus stands granted in terms of prayer clause (A) on the condition of payment of cost referred to above and is disposed of on aforesaid terms.

10. Civil revision application to appear on board on 03-03-2017.

SUNIL P. DESHMUKH,
JUDGE

pnd