

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

942 CIVIL APPLICATION NO. 4838 OF 2016
IN FAST/2751/2016 WITH CA/4836/2016 IN FAST/2663/2016
WITH CA/4837/2016 IN FAST/2663/2016 WITH CA/4839/2016 IN
FAST/2751/2016

THE EXECUTIVE ENGINEER, MEDIUM PROJECT, LATUR AND
OTHERS
VERSUS
PRAKASH VISHWANATH PATIL AND OTHERS

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Advocate for Applicants : Pulkundwar Santosh B.

Advocate for respondent no.1 : Mr. Satish S Deshmukh
(Patnoorkar)

Advocate for respondent no.2 to 4 : Mr. H. B. Nandgawde

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CORAM : P.R. BORA, J.
DATE : 30-06-2017.

P.C. :

1) Delay of 839 days has occurred in filing these appeals by the acquiring body.

2) The learned Counsel appearing for the acquiring body submits that non-compliance with the procedural aspects i.e. obtaining sanction from the higher authorities, thereafter securing the necessary documents and arranging for the amount of court fee, etc., the time was consumed and that is the reason that the appeals could not be filed within the period of limitation. Learned Counsel further submits that the enhancement as has been given by the Reference Court is

apparently on much higher side and according to the appellants there was no evidence in that regard so as to enhance the compensation to that extent. Learned Counsel submitted that the SLAO had offered the compensation @ Rs.715/- per Are which has been enhanced by the Reference Court to Rs.8,000/- per Are. Learned Counsel submitted that the acquiring body needs to be given an opportunity to agitate its matters on merits. He, therefore, prayed for condoning the delay which has been caused in filing the appeals.

4) Learned Counsel appearing for the original claimants strongly opposed for condoning the delay. Learned Counsel submitted that in the applications for condonation of delay the reasons which are assigned are insufficient to condone the huge delay of 839 days. Learned Counsel submitted that even otherwise there is no merit in the appeals so filed by the acquiring body. Learned Counsel, therefore, prayed for rejecting the applications.

5) I have carefully considered the submissions made on behalf of the learned Counsel appearing for the parties. The reasons which are assigned by the acquiring body to justify the delay caused in filing the appeal are mostly on the ground of procedural compliances. It is quite evident that the officers concerned who assigned with the duty to file the appeals within the stipulated period of limitation, failed in discharging their duties. Therefore, negligence is on the face of the record. However, the fact cannot be ignored that the compensation as has been enhanced by the Reference court from Rs.750/- per Are to Rs.8,000/- per Are apparently appears to be on much higher side. The evidence, therefore, needs to be scrutinised. In view of the fact that the public money is involved, I deem it

appropriate to condone the delay and extend the opportunity to acquiring body to agitate its matters on merit. Hence, the Civil applications are allowed. The delay caused in filing the appeals is condoned. Appeals be registered in accordance with law. Civil Applications stand disposed of.

6) On registration of the appeals, issue notice to the respondents. Learned counsels appearing for the respective respondent waive service. Service complete. List these appeals for admission after four weeks.

7) Call for Record and Proceedings.

8) Heard learned Counsel for respective parties on stay applications.

9) The execution of the awards impugned in the present appeals shall stand stayed subject to deposit of the entire amount under the aforesaid awards with interest thereon by the acquiring body in this court within twelve weeks from the date of this order. Civil Applications for stay stands disposed of.

(P.R. BORA)
JUDGE

vsm