

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

CIVIL APPLICATION NO. 1853 OF 2016
IN
CIVIL REVISION APPLICATION [STAMP] NO. 3934 OF 2016

Vitthal s/o Panda Gaikwad .. Applicant
versus
The State of Maharashtra and ors. .. Respondents

Mr. Santosh N. Patne, Advocate for applicant
Mr. A.D. Namde, Asstt. Govt Pleader for respondents no.1 and 2

CORAM : SUNIL P. DESHMUKH, J.
DATE : 24th February, 2017

ORDER :

1. Heard learned counsel for the applicant and learned Assistant Government Pleader.

2. Learned counsel for the applicant submits that the land acquisition reference had been lodged by applicant in the court at Osmanabad in 1997. Thereafter, it was given to understand that the applicant may not be required to attend to the court day-to-day and his presence would be required only when evidence would be taken in the matter. As such, the applicant had been waiting for communication from the lawyer.

3. However, it appears that the subsequently in 2005, land acquisition reference had been transferred to the court at Omerga and had been re-numbered. The matter there as well had been lingering on.

4. Further, the advocate for the applicant had been from Osmanabad and not Omerga and in the circumstances, the matter appears to have went unattended and ultimately decision was rendered in 2007.

5. The applicant became aware aware of the same while the advocate had handed over him certified copy of decision in the land acquisition reference in 2016. The applicant is stated to be poor and a rustic. He, in the circumstances, has suffered under the orders. The matter had been decided against him for want of evidence and had the applicant been informed in time, this position could have been avoided. The delay in the circumstances occurred would not be attributable to the applicant and reasons lie elsewhere. However, at the end of day, it is the applicant who would suffer consequences. It is therefore urged that since delay is accounted for the same may be condoned.

6. Despite couple of adjournments being taken by the respondents, no counter affidavit has been filed.

7. Learned counsel for the applicant, on instructions, states that he would waive interest for the period from the date of decision in the land acquisition reference no. 769 of 2005 i.e. 12-07-2007 to 04-02-2016-date of filing of present civil application.

8. Having regard to that the veracity of the reasons in the application is not under challenge and in view of decision of the

supreme court in the case of *Collector, Land Acquisition, Anantnag vs. Mst, Katiji and others*, reported in *AIR 1987 SC 1353*, it would be appropriate to grant civil application.

9. Accordingly, civil application stands granted in terms of prayer clause (B) on the condition that the applicant would not claim interest for the period from the date of decision in the land acquisition reference no. 769 of 2005 i.e. 12-07-2007 to 04-02-2016-the date of filing of present application, and is disposed of.

10. Learned counsel for the applicant further states that he would apprise the court of this order and particularly refer to that the interest for the period referred to in this order as above would be waived and would not be claimed by applicant.

SUNIL P. DESHMUKH,
JUDGE

pnd