

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

8 CIVIL APPLICATION NO. 6778 OF 2014
IN FAST/6119/2014 WITH CA/6779/2014 IN FAST/6262/2014
WITH CA/6780/2014 IN FAST/6260/2014 WITH CA/6781/2014
IN FAST/6264/2014 WITH CA/6782/2014 IN FAST/6252/2014
WITH CA/6783/2014 IN FAST/6234/2014 WITH CA/6788/2014
IN FAST/6231/2014 WITH CA/6789/2014 IN FAST/5926/2014

GORAKH GANPATI BASAD

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Murge Estling S.

AGP for Respondents/State : Mr. S.P. Sonpawale

Advocate for Respondent No.2 : Mr. R.R. Irnale-Absent

CORAM : K.K. SONAWANE, J.

DATE : 18TH AUGUST, 2017

PER COURT :

1. Heard learned counsel for the applicant/s and learned A.G.P. for the respondents. Learned counsel for respondent No.2 remained absent. Perused the applications and documents produced on record.

2. Learned counsel for the applicant/s submits that the Reference Petitions under Section 18 of the Land Acquisition Act for enhancement of compensation were filed before the Civil Judge, Senior Division, Osmanabad, which came to be disposed of, but the said order was not communicated to them by their lawyer. It is further submitted that the lower Court granted very less compensation to the applicants. According to the learned counsel, the applicants are illiterate persons. They are working on daily wages, therefore, their financial position is not sound. They also do not know the legal procedure to prefer an appeal. It is further submitted that due to official procedure to present the appeal, delay has been caused. Moreover, the learned counsel submits that the applicants/appellants will not claim statutory benefit as well as interest amount as laid down in Land Acquisition Act for the period of delay sought to be condoned in case of success of appeal on merit. As such, he prayed to condone the delay.

3. Learned A.G.P. raised objection and submits

that the reasons mentioned by the applicants for condonation of delay are not sufficient and considerable. Therefore, the Civil Applications may be rejected.

4. In view of the aforesaid submissions and for the reasons mentioned in the applications that the applicants are rustic and illiterate persons having no knowledge about the legal procedure as well as they had a financial crisis, I find it justifiable to give reasonable opportunity to the applicants-appellants in the interest of justice to ventilate the grievances before the Appellate Forum. There is no impediment to condone the delay. There is sufficient cause to allow the applications for condonation of delay. In addition, the applicants/claimants have shown their willingness/inclination that they will not claim statutory benefits as well as the interest amount as laid down in the Land Acquisition Act, 1894 for the period of delay sought to be condoned. In such circumstances, by imposing aforesaid fetter of waiver of statutory benefits on the part of applicants-

appellants, there would not be any impediment to condone the delay. The application for condonation of delay deserves to be allowed.

5. In sequel, applications stand allowed. The delay caused to present the appeal against the impugned Award stands condoned subject to condition that applicants-appellants shall not claim statutory benefits as well as amount of interest as laid down in the Land Acquisition Act, 1894 for the delayed period allowed to be condoned, in case, any enhanced compensation is awarded by this Court after adjudication of appeal on merit.

6. Pursuant to aforesaid waiver of statutory claim, the applicants-appellants shall furnish undertaking to that effect and place it on record of the appeal to enable this Court to take note of the same, while decision of the appeal on merit. Registry to take requisite steps for further process.

7. The applicants to take steps for further

process in the First Appeals. **Admit.** On admission, learned A.G.P. waives service of notice on behalf of respondent No.1 – State. Issue notice of Appeal to respondent No.2.

8. Appeals be listed for final hearing in due course.

(**K.K. SONAWANE, J.**)