

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

940 CIVIL APPLICATION NO. 7545 OF 2016
IN FAST/8909/2016 WITH CA/7549/2016 IN FAST/9264/2016

EXECUTIVE ENGINEER OSMANABAD IRRIGATION DIV., OSMANABAD THR EXE
ENGINEER MINOR IR

VERSUS

ANKUSH RANGNATH NANDE AND ORS

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Advocate for Applicant : Mr. Sangle Shirish G.
AGP for Respondents/ State : Mr. C. V. Dharurkar.
Advocate for Respondents no.1 : Mr. H. S. Khaire

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CORAM : PR. BORA, J.

DATE : 05-07-2017.

P.C. :

1) Heard Shri Sangle, learned Counsel appearing for acquiring body and Shri H. S. Khaire, learned Counsel appearing for the respondents / original claimants. The delay of 891 days has occurred in filing these appeals by the acquiring body. Shri Sangle submitted that in making procedural compliance the delay has occurred. Learned Counsel submitted that for filing the appeals, sanction was to be obtained from the higher authorities and thereafter the documents were to be prepared and the amount of court fee was also to be procured. Learned Counsel submitted that in making such compliances delay has occurred and appeals could not be filed within a stipulated period.

2) Learned Counsel further submitted that the substantial grounds are raised by the applicants in exception to the impugned award. Learned Counsel submitted that the SLO had offered the compensation i.e. Rs.21,500/- per Hectar , whereas the Reference Court has enhanced the said amount by determining the compensation at the rate of Rs.3,000/- per Are i.e. Rs.3,00,000/- per hector. Learned Counsel submitted that in such circumstances, an opportunity be given to the acquiring body to agitate the matters on merits.

3) Shri Khaire, learned counsel for the respondent no.1

opposed for condoning the delay. Learned Counsel submitted that the reasons which are assigned for the huge delay of 891 days are insufficient to condone it. Learned Counsel, therefore, prayed for rejection of the applications.

4) Though it apparently appears that the officers concerned were not diligent in filing the appeals and the delay seems to have been caused because of the lethargy on their part, it cannot be ignored that the compensation as has been enhanced by the Reference Court prima facie appears on higher side. The evidence in the matter, therefore requires to be rescrutinised. Since the public money is involved, the appeals have to be heard on merits. I am therefore inclined to allow the present applications. Hence, the following order.

ORDER

1. The applications are allowed. Delay caused in filing the appeals is condoned.
2. Appeals be registered in accordance with law.
3. Civil Applications stand disposed of.
4. On registration of the appeals, issue notice to the respondents. AGP Mr. C. V. Dharurkar, waives for State and SLO Service complete.
5. List the matters for admission after six weeks. Call for R & P

**(PR. BORA)
JUDGE**