

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

**CIVIL APPLICATION NO. 7824 OF 2016
IN
FIRST APPEAL STAMP NO. 9660 OF 2016**

The Executive Engineer,
M.I.D. Osmanabad,
Through Godavari Marathwada
Irrigation Development Corporation
Aurangabad.

.... APPLICANT

V E R S U S

1. Shaikh Abdul Gani Jenulabddin
and others

.... RESPONDENTS

WITH

CIVIL APPLICATION NO. 7834 OF 2016 IN FIRST APPEAL ST. NO. 9925 OF 2016
CIVIL APPLICATION NO. 7837 OF 2016 IN FIRST APPEAL ST. NO. 9920 OF 2016
CIVIL APPLICATION NO. 7846 OF 2016 IN FIRST APPEAL ST. NO. 9945 OF 2016
CIVIL APPLICATION NO. 7850 OF 2016 IN FIRST APPEAL ST. NO. 9932 OF 2016
CIVIL APPLICATION NO. 7854 OF 2016 IN FIRST APPEAL ST. NO. 9941 OF 2016
CIVIL APPLICATION NO. 9106 OF 2016 IN FIRST APPEAL ST. NO. 9913 OF 2016

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Mr. Sudhir G. Bhalerao, Advocate for applicant
Mr. M.B.W. Khan Advocate for respondents No.1 to 5
Mr. A.R. Barde, Advocate for respondent No. 1(in CA No. 7854 of 2016)
Mr. S.A. Wakure, Advocate for respondent (in CA No. 9106 of 2016)
(Absent)
Mr. S.R. Yadav, AGP for respondents No. 6 and 7.

CORAM : K.K. SONAWANE, J.

RESERVED ON : 28TH SEPTEMBER, 2017.

PRONOUNCED ON : 10TH OCTOBER, 2017.

Order :-

1. These are the applications moved by the applicant-Acquiring Body to condone the delay for lodging the appeal against the impugned Judgment and Award passed by the learned Civil Judge Senior Division, Osmanabad (for short hereinafter referred to as "Reference Court") under section 18 of the Land Acquisition Act, 1894.

2. The learned counsel for applicant-Acquiring Body submits that applicant was not party respondent in the original proceedings before the learned Reference Court in the impugned Land Acquisition References/petitions. The applicant is statutory body having an independent entity. The learned Government Pleader for respondent -State in the matters did not communicate about impugned Award passed by learned Reference Court. The applicant-Acquiring Body learnt about the impugned Award when respondents-original claimants approached to the office of the applicant-Acquiring Body and made demand of enhanced compensation as per Award passed by learned Reference Court. According to learned counsel, the AGP did not file appeals against impugned Award. Therefore, applicant-Acquiring Body approached to its higher authority for obtaining legal opinion. After legal opinion etc. preferred the present appeals, but there is delay of near about 763 days in filing the appeals. It has been submitted that delay caused for filing the appeal is not intentional or deliberate, but it caused due to compliance of official procedure for filing the appeals. Hence, learned counsel prayed to condone the delay.

3. Learned counsel appearing for respondents-original claimants vociferously opposed to the contentions propounded on behalf of applicant - Acquiring Body. It is argued that reasons mentioned in the application would not constitute "sufficient cause" to condone the delay. There was culpable negligence on the part of applicant-Acquiring Body. The officials of the applicant did not deal with the matter with due diligence. But, they adopted lethargic approach for compliance of procedural formalities. It would not constitute sufficient cause to condone the delay. Learned counsel for the respondents-claimants further submits that this Court

under order dated 27-02-2017 granted the stay to the execution and implementation of the impugned Award subject to condition that the applicant-Acquiring Body shall deposit entire decretal amount in this Court within twelve weeks. But, the applicant-Acquiring Body did not comply with the order. Therefore, in view of law of equity, applicant-Acquiring Body has no *locus standi* to seek any further relief from this Court. He prayed to dismiss the applications.

4. I have given anxious consideration to the submissions canvassed on behalf of both sides. The learned Reference Court passed the impugned Award in the month of November, 2013 for enhancement of compensation in favour of respondents-original claimants. According to learned counsel, the applicant - Acquiring Body was not party respondent to the original proceedings of Land Acquisition References / petitions filed under section 18 of the Land Acquisition Act, 1894. But, the record belies the contention put-forth on behalf of learned counsel for the applicant. The Executive Engineer, Minor Irrigation Department was party respondent in References/petitions before the learned Reference Court. Acquiring Body - Godavari Marathwada Irrigation Development Corporation has stepped into the shoe of Executive Engineer, Minor Irrigation Division, Osmanabad. Therefore, it is hard to believe that the applicant - Acquiring Body was not party to the proceedings and unaware about the impugned Award passed by the learned Reference Court. Admittedly, applicant - Acquiring Body preferred the appeals accompanied with present applications for condonation of delay in the year 2016-2017, after efflux of colossal period of three/four years. It would be reiterated that the circumstances on record demonstrate that in a very lethargic and casual manner the officials of the applicant-Acquiring Body handled the matters. They were found

totally callous for pursuing the matters to file the appeals within stipulated period of limitation. These circumstances adumbrates that they acted in a very irresponsible manner with lack of vigilance. It is axiomatic that there was culpable negligence on the part of Officers of the Acquiring Body to deal with matter. Therefore, the delay caused in the present matters appears to be inexplicable in normal circumstances.

5. It is settled rule of law that the rights vesting in successful parties to a litigation after expiry of period of limitation, should not lightly be interfered unless it is established that appeal could not have been filed in time despite exercise of reasonable diligence on the part of appellant. In the instant matter, the attending circumstance on record referred supra indicate that the officials of applicant-Acquiring Body did not take reasonable precaution to approach the Appellate Forum within stipulated period. They could complete the official process expeditiously for relief from the Appellate Forum. But, they seems very lethargic and due to this culpable negligence delay has been caused. Therefore, it would unjust and improper to cause any interference in the legal rights to recover decretal amount, vested in the respondent-original claimants by virtue of Award of the learned Reference Court, after efflux of period of limitation. Therefore, in absence of "sufficient cause", the delay would not be condoned as prayed.

6. Moreover, there is also substance in the arguments advanced on behalf of learned counsel for the respondents-original claimants that while granting stay to the execution and operation of Award of the Reference Court, this Court imposed the condition to deposit decretal amount within twelve weeks. But, the applicant-Acquiring Body did not pay any heed to the order passed by this Court nor deposited any amount within stipulated

period. No doubt, being conditional order stay granted by this Court would lost its force for non-compliance of condition for stay. But, it does not mean that the applicant-Acquiring Body has liberty to circumvent or evade the order passed by this Court. At this juncture, learned counsel for the applicant-Acquiring Body in a very rude manner submits that the applicant did not ask for any condition but the Court *suo-moto* imposed the condition of depositing the decretal amount, while granting stay in favour of the applicant-Acquiring Body. There was no such prayer to that effect on behalf of applicant-Acquiring Body. Therefore, according to him, it would not cause any adverse impact on the rights of applicant to seek further relief into the matter. It is very strange to appreciate these submissions on behalf of applicant- Acquiring Body. It is true that this Court *suo moto* impose condition for depositing amount within 12 weeks. But, when the applicant was not in a position to comply with the condition, they should intimate this Court at the earliest or seek further extension of time. But, the applicant has no authority to keep the respondent-original claimant stranded for uncertain period to enjoy the fruits of decree.

7. I do not find merit to accept aforesaid contentions put-forth on behalf of learned counsel for applicant - Acquiring Body. It is to be noted that once this Court passed the order, it is obligatory for the parties to the litigation to honour and abide the same. This Court granted twelve weeks period for depositing the decretal amount. But, even after twelve weeks, applicant-Acquiring Body did not painstake to get the period extended for depositing the decretal amount to show its *bonafide*. Undisputedly, the judicial order of any kind passed by Court of law should be obeyed to uphold the highest ideal in the administration of justice and in case there is an attempt to circumvent or evade the order, it may result in cynical

disregard of law which would have impact on the society and people may loose faith from justice delivery system. These circumstances put the question marks on the *locus standi* of applicant- Acquiring Body to seek further reliefs from the Court of law.

8. In view of above premise, I am of the opinion that there is no sufficient cause to condone the delay. Moreover, conduct and demeanour of the officials of the Acquiring Body reflects negligence culpable in nature. They handled the matter in a lethargic manner. There was lack of vigilance while dealing with matter. The reluctance of the learned counsel for applicant – Acquiring Body to deposit decretal amount pursuant to order passed by this Court while granting stay also one of the decisive factor for appreciation. Therefore, the attending circumstances do not allow to condone the delay. Hence, applications deserve to be rejected. In sequel, applications stand dismissed. No order as to costs.

[K. K. SONAWANE]
JUDGE

mtk.