

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

36 CIVIL APPLICATION NO. 14969 OF 2015
IN FAST/13281/2014

VIJAYKUMAR RAMKISHAN UGILE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicants : Mr. H.S. Nandagavale h/f Mr. V.G. Sakolkar
AGP for Respondent No. 1 : Mr. S.S. Dande
Advocate for Respondent No. 2 : Mr. Balaji Lipne h/f
Mr. Anand Chawre

...
WITH CA/14971/2015 IN FAST/13430/2014
WITH CA/14972/2015 IN FAST/13369/2014

CORAM : K.K. SONAWANE, J.

DATED : 13th NOVEMBER, 2017.

Order :

1. Heard learned counsel for the parties.
2. Perused the applications and relevant documents produced on record. It has been submitted on behalf of the applicants that delay caused in filing the appeal is not intentional or deliberate but it caused due to unavoidable circumstances as well financial crises for filing the present appeals. Learned counsel submits that there are other proceedings of first appeals stamp No. 12298, 12336 and 12218 of 2010 filed against these applicant by the respondent-State arising out of the same Award. The learned counsel submits that State has filed the appeals against market value determined by reference Court under section 18 of the Land Acquisition Act. A reasonable opportunity be given to applicants for seeking relief of enhancement of compensation in these matters. The learned counsel further added that applicants - appellants will not claim statutory benefits as well as amount of interest as laid down in the Land Acquisition Act, 1894, for the period of delay sought to be condoned, in case of success of appeals on merit. Hence, learned counsel for applicants prayed for condonation of delay.

3. The learned counsel for No. 2 - Acquiring Body submits that there is inordinate delay, which has not been explained satisfactorily, therefore, the same cannot be condoned and prayed for rejection of applications.

4. The learned AGP raised objection and submits that applications be rejected.

5. Perused the application and relevant documents on record. Admittedly, the matters pertain to enhancement of compensation for the lands under acquisition. The learned Reference Court partly allowed the Reference Petitions filed by the applicants under section 18 of the Land Acquisition Act, 1894. The respondent-State of Maharashtra preferred appeals against the findings of the learned Reference Court for determining the correct market value on the ground that the market value determined is exorbitant and excessive one. The applicants also intend to challenge the findings for awarding meagre compensation amount and also intend to seek enhancement of compensation.

6. In view of the aforesaid submissions and for the reasons mentioned in the application that the delay so caused in filing the appeals was only due to unavoidable circumstances as well financial crises, I find it justifiable to give reasonable opportunity to the applicants-appellants in the interest of justice to ventilate grievances before the Appellate Forum. 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 amount of interest as mentioned above. In such circumstances, by imposing aforesaid fetter of waiver of statutory benefits and interest amount etc. on the part of applicants-appellants, there would not be any impediment to condone the delay. The applications for condonation of delay required to be allowed.

7. In sequel, applications are allowed in terms of prayer clause "B". The delay caused to present the appeals against the impugned

Judgment and 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 appeals on merit.

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

9. The civil applications are allowed in aforesaid terms and stand disposed of.

10. On registration of appeal, issue notice to the respondents. Learned AGP waives service of notice for respondent No. 1 and Mr. Chaware, learned counsel waives service of notice for respondent No. 2.

11. Meanwhile, call for record and proceedings from the concerned learned Reference Court.

12. List the appeals for admission in due course.

Sd/-

[K. K. SONAWANE]
JUDGE

MTK