

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**937 CIVIL APPLICATION NO. 1282 OF 2017
IN FAST/15835/2016**

OMKAR KASHIRAM KOLI SINCE DIED THR LRS NAWAL OMKAR
KOLI SINCE DECEASED THR HIS LR LAXMAN AND ORS.

VERSUS

THE SPECIAL LAND ACQUISITION OFFICER, NANDURBAR AND
ANR

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Advocate for Applicant : Mr.Patil R.C.
AGP for Respondent State: Mr. S.P.Sonpawale

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CORAM : P.R. BORA, J.
Dated: July 25, 2017

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PER COURT :-

1. Heard Shri R.C.Patil, learned Counsel appearing for the applicant, and Shri Sonpawale, learned A.G.P., appearing for respondent State.
2. Huge delay of 4452 days has occurred in filing the present appeals. It is contended that the original Reference applications were preferred by the grand father of the applicant and further progress in the matter was not known to the present applicants. Learned Counsel submitted that in other connected appeals arising out of the same acquisition, this Court has condoned the delay subject to filing an undertaking by the respective claimants that they will not claim any statutory benefit or interest for the period of delay. One such order passed by this Court (Coram: V.K.Jadhav, J.) on 6th of January, 2017 in CA No.16630/2016 is placed on record. Learned Counsel also brought to my notice the order passed by this Court in

C.A.No.1599/2005 on 2nd of June, 2008 wherein this Court (Coram: Abhay S.Oka, J.) has condoned the delay of 3254 days on similar grounds. Learned AGP though has opposed for condonation of delay, has made an alternative submission that if at all delay is to be condoned, the applicants be dis-entitled from claiming any interest for the period of delay.

3. In view of the fact that the learned Counsel for the applicant, on instructions, has undertaken to file undertaking of the applicants that they will not be claiming interest of the period of delay in the event they succeed in the appeal and, consequently, the amount of compensation is enhanced on the said amount of enhanced compensation, and so also, as reasons which are assigned by the applicants in the application also cannot be outrightly rejected, I am inclined to allow the present application. Hence, the following order:

ORDER

1. Delay caused in filing the appeal is condoned. Civil Application for condonation of delay stands disposed of.

2. Appeal be registered in accordance with law. It is clarified that, as undertaken by the applicants, they will not be entitled for interest of the period of delay i.e. 4452

days, in the event they succeed in appeal, and the amount of compensation is enhanced on the said amount of enhanced compensation. The applicants shall file such undertakings in the appeal. Copy of the present order be kept in the papers of appeal.

(P.R. BORA, J.)

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AGP/1282.17CA