

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

16 CIVIL APPLICATION NO. 9216 OF 2016
IN FAST/17804/2016 WITH CA/9219/2016 IN FAST/17804/2016
WITH CA/9307/2016 IN FAST/17812/2016 WITH CA/9309/2016 IN
FAST/17812/2016 WITH CA/9311/2016 IN FAST/17798/2016 WITH
CA/9313/2016 IN FAST/17798/2016 WITH CA/9327/2016 IN
FAST/17822/2016 WITH CA/9328/2016 IN FAST/17822/2016

THE EXECUTIVE ENGINEER, BEED MINOR IRRIGATION DIVISION,
HEAD QUARTER AT AMBAJOGAI
VERSUS
PRABHAKAR SHANKAR NAGVASE AND ORS

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.Advocate for Applicants : Shri Patil Ruturaj C
.Advocate for respondent nos. 1 to 3 : Shri Deshmukh R. A., Shri. S.S
Thombare

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CORAM : P. R. BORA, J.
DATE : 01.08.2017.

PER COURT :

1) Heard Shri Ruturaj Patil, learned Counsel appearing for the appellant / acquiring body and Shri S. S. Thombare, Shri. Deshmukh, learned Counsel appearing for the respondents i.e. original claimants. Delay of 1052 days has occurred in filing these appeals by the acquiring body. Shri Patil, learned Counsel appearing for the acquiring body submitted that for filing of an appeal sanction has to be obtained from the higher office and the approval from the Law & Judiciary Department is also required. The learned Counsel submitted that in obtaining these sanctions and approval majority time was consumed. The learned

Counsel further submitted that thereafter in collecting the documents and in procuring the amount of court fees further time was consumed. Learned Counsel submitted that the delay which is occurred is, thus, for bonafide reasons and unintentional. The learned Counsel further submitted that substantial grounds are raised by the acquiring body while challenging the impugned judgment and award. The learned Counsel pointed out that when the S.L.A.O. had offered the compensation at the rate of Rs.340/- per Are, the Reference Court has enhanced the said compensation by determining the market value at the rate of Rs.1,500/- per Are. The learned Counsel submitted that considering the hike, which prima facie, is unreasonable, the entire evidence needs to be rescrutinised and the matters need to be decided on merits since public money is involved.

2) The learned Counsel appearing for the original claimants opposed for condoning the delay stating that no cogent and sufficient reasons are assigned. The learned Counsel further submitted that though the lands are acquired in the year 1996, till date the enhanced amount of compensation is not received to the claimants. Learned Counsel submitted that as such no case is made out for condoning such huge delay. The learned Counsel, therefore, prayed for rejecting the applications.

3) The delay is certainly of a longer period. However, the reasons which are assigned by the acquiring body cannot be outrightly rejected. Though it may be the case that the concerned officers were not diligent or in other words negligent, it cannot be ignored that the enhancement, which has been given by the Reference Court, prima facie, appears to be on higher side. The evidence, therefore, needs to be rescrutinised and the appeals need to be heard on merits. There is substance in the contention of the learned Counsel for the acquiring body that public money is involved and as such the appeals are to be heard on merits.

4) For the reasons stated above, I am inclined to allow the present applications. Hence, the following order.

ORDER

1. The applications are allowed.
2. Delay caused in filing the appeals is condoned.
3. On registration of the appeals, issue notice to the respondents. Learned Counsels waive service for the respective respondents. State waives notice. Service complete.
4. Place the matters for admission after four weeks.
5. Call R & P.

6. The execution of the awards impugned in the present appeals shall stand stayed subject to deposit of the entire amount under the aforesaid awards with interest thereon by the acquiring body in this court within twelve weeks from the date of this order.

7. Applications for stay stand disposed of.

(P. R. BORA)
JUDGE