

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1) CA NO.13865/2016gr

**15 CIVIL APPLICATION NO. 13865 OF 2016
IN FAST/18664/2016
WITH
CA/13866/2016 IN FAST/18668/2016
WITH
CA/13867/2016 IN FAST/18666/2016
WITH
CA/13868/2016 IN FAST/18670/2016**

VILAS DHULAPPA VAIRAGKAR
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr.Katneshwarkar S.P.
AGP for Respondent State: Mr. R.B.Bagul

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CORAM : P.R. BORA, J.
Dated: July 04, 2017
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PER COURT :-

1. The original claimants have preferred the appeal against common judgment and award passed by the Court of Joint Civil Judge, Senior Division, at Omarga, on 22nd of December, 2006, in LAR No.110/2005, with connected Land Acquisition References. The Appeals are admittedly filed seeking enhancement in the amount of compensation as has been awarded by the Reference Court. Since the delay has been caused in filing the appeals, the applicants have preferred the present applications seeking condonation of delay which has occasioned in filing the appeals. Delay caused is of 3373 days.

agp/-

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2. Shri Katneshwarkar, learned Counsel appearing for the claimants submitted that though the Reference Court has decided the Reference Applications and enhanced the amount of compensation in 2006, the amount of enhanced compensation was received to the claimants four years thereafter i.e. in the year 2010. Learned Counsel submits that in such circumstances, the applicants could not file the appeals within the period of limitation before this Court. Learned Counsel submitted that the applicants undertake not to claim any interest of the period of delay if they succeed in the present appeal and the amount of compensation is enhanced. Learned Counsel further submitted that the applicants be given an opportunity to agitate their matters on merits and the same shall not be rejected merely on technical ground of delay.

3. Shri Bagul, learned A.G.P., has strongly opposed for condonation of delay. Learned A.G.P. submitted that the delay caused is of the huge period of more than nine years. Learned A.G.P. further submitted that according to the case of the applicant themselves they have received the amount of compensation enhanced by the Reference Court in the year 2010. In such circumstances, the appeals could have been filed immediately thereafter. The learned A.G.P. further submitted that the applicants have not provided any sufficient cause to condone the delay of long 9 years. Learned A.G.P., therefore, prayed for rejecting the applications.

agp/-

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4. I have carefully considered the submissions made on behalf of the parties. The delay which has occurred in filing the appeals is admittedly of the period more than 9 years. The awards which are impugned in the present appeals were passed in the year 2006. Even if the contention of the applicants is accepted that till the year 2010, they did not receive any amount of compensation and hence they could not prefer the appeals for want of funds, the fact remains that even after receiving the amount of compensation, the applicants did not prefer the appeals for the long period of six years and there is absolutely no explanation of the said period of delay. The contention of the applicants that the amount received by them towards compensation as enhanced by the Reference Court was spent by them on discharging earlier debts, etc. is difficult to be accepted. The applicants have, thus, utterly failed in making out any case to condone the delay of nine years.

5. Moreover, out of curiosity when I perused the record, it is revealed that, in the applications filed under Section 18 of the Land Acquisition Act, the claimants had claimed compensation at the rate of Rs.60,000/- per acre. The Reference Court vide the impugned awards has enhanced the amount of compensation by determining the market value of the subject lands at the rate of Rs.53,000/- per acre. It is, thus, evident that there was no much difference in the amount so claimed by the claimants and the

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amount awarded by the Reference Court. Apparently, there appears no reason for causing any interference in the amount of compensation as has been determined by the Reference Court. Thus, even on merits, prima facie, there seems no case for the applicants. In view of the fact that the applicants have failed in showing any sufficient cause to justify the delay of long nine years, I am not inclined to allow these applications. Hence, the following order:

ORDER

1. Civil Applications for condonation of delay are rejected.

(P.R. BORA, J.)

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