

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1) CA NO.15087 OF 2016gr

**6 CIVIL APPLICATION NO. 15087 OF 2016
IN FAST/30782/2016**

WITH
CA/15089/2016 IN FAST/31041/2016
WITH
CA/15091/2016 IN FAST/31018/2016
WITH
CA/15093/2016 IN FAST/30997/2016
WITH
CA/15095/2016 IN FAST/31000/2016
WITH
CA/15097/2016 IN FAST/31015/2016
WITH
CA/15098/2016 IN FAST/31045/2016
WITH
CA/15100/2016 IN FAST/31031/2016
WITH
CA/15102/2016 IN FAST/31027/2016
WITH
CA/15104/2016 IN FAST/31022/2016
WITH
CA/15106/2016 IN FAST/31038/2016

GODAVARI KHORE MARATHWADA IRRIGATION DEVELOPMENT
CORPORATION THR THE EXE ENGINEER
VERSUS
SHIVAJI LIMBAJI KASALE

...
Advocate for Applicant :Mrs. Deshpande Geeta L
AGP for Respondent State: Mr. R.B.Bagul
Mr.Kendre N.D., Adv., for R/sole.

...
CORAM : P.R. BORA, J.
Dated: July 28, 2017
...

PER COURT :-

1. Heard Smt.Geeta Deshpande, learned Counsel

agp/-

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appearing for the acquiring body, and Shri Kendre, learned counsel appearing for the respondents i.e. original claimants. Delay of 958 days has occurred in filing the appeals by the acquiring body.

2. Learned Counsel for the acquiring body submitted that in making procedural compliances the time was consumed and that is the main reason that the appeals could not be filed within the period of limitation. Learned Counsel pointed out that sanctions are to be obtained from the higher office and approval is also to be taken from the Law and Judiciary Department and, thereafter, the matter is to be prepared, Court fee amount is to be procured and appeal is to be filed. In making the compliances, according to learned Counsel, time was consumed and hence, the appeals could not be filed within the stipulated period of limitation. Learned Counsel submitted that substantial grounds are raised by the acquiring body in exception to the impugned judgment and award. Learned Counsel submitted that when the Special Land Acquisition Officer had offered compensation at the rate of Rs.945/- per Are, the Reference Court has enhanced it to Rs.8250/- per Are. Learned Counsel submitted that the enhancement so awarded is unreasonable and without sufficient evidence. Learned Counsel, therefore, prayed for hearing the appeals on merits by condoning the delay since public money is involved. Learned Counsel appearing for the respondents / claimants strongly opposed for condonation of delay. Learned Counsel submitted that reasons are of routine and usual nature

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and delay of huge period of 958 days cannot be condoned on such grounds. Learned Counsel, therefore, prayed for rejecting the applications.

3. I have considered the submissions made on behalf of the learned Counsel appearing for the parties. It is true that the delay caused is of a huge period. It apparently appears that the concerned officers have not shown due diligence or, in other words were negligent in prosecuting the matter, however, it cannot be ignored that the enhancement, as has been awarded by the Reference Court from Rs.945/- per Are to Rs.8250/- per Are, prima facie, appears to be on higher side. Entire evidence will have to be, therefore, re-scrutinized. Prima facie case is made out by the appellant. Having regard to the fact that public money is involved, I am inclined to allow the present applications for condonation of delay. Hence the order:

ORDER

1. The Applications for condonation of delay are allowed. Delay caused in filing the appeals is condoned. The Appeals be registered in accordance with law. Civil Applications for condonation of delay stand disposed of.

2. After registration of the appeals, issue notice to the respondents. Shri Kendre, learned Counsel, waives service for respondents / original claimants. Learned A.G.P. waives service for respondent State. Service complete.

agp/-

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3. List the matters for admission after four weeks. Call for
R & P.

(P.R. BORA, J.)