

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

36 CIVIL APPLICATION NO. 16065 OF 2016
IN FAST/35232/2016 WITH CA/16066/2016 IN
FAST/35232/2016

THE STATE OF MAHARASHTRA AND ANR
VERSUS
KAUSHALYA GOVIND SHETE AND ORS

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Advocate for Applicants : Mr. SP Sonpawale, AGP
Mr. Shirsath P.B., Adv. For R/1 To R/3.

CORAM : P.R.BORA, J.

DATE : 12th June, 2017.

PER COURT :

1) When the present application was taken up for hearing, Shri Shirsath, learned counsel appearing for the respondents – original claimants, brought to the notice of this court that the Award, which has been impugned in the present appeal, was also challenged by the original claimants, seeking enhancement in the amount of compensation so awarded by the Reference Court. The learned Counsel further submitted that First Appeal No.357/2012 which was filed by the original claimants, has been allowed

by this Court (Coram: S.V.Gangapurwala,J.) on 7th October, 2015 and this Court has enhanced the amount of compensation to Rs.35,34,111/- in total. The learned counsel has placed on record a copy of the judgment so delivered by this court.

2) In view of the fact that the Award, which has been impugned in the present appeal has already been considered by this Court in aforesaid First Appeal No.357/2012 and stood modified, the present appeal filed by the State challenging the said Award, cannot be entertained. The award impugned in the present appeal has merged in the Judgment passed by this Court in F.A. No.357 of 2012. The appellant-State may challenge the Judgment and order passed by this Court in the aforesaid First Appeal but now it cannot challenge the Judgment and Award passed by the Reference Court.

3) In view of the above the application for condonation of delay cannot be entertained and

deserves to be rejected. It is accordingly rejected. Consequently the appeal on stamp number also stands rejected, however, without any order as to the costs. Pending Civil Application, if any, stands disposed of.

(P.R.BORA,J.)

bdv/