

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1)

CA NO.1296 OF 2015

910 CIVIL APPLICATION NO. 1296 OF 2015

IN FAST/33151/2014

WITH

CA/1295/2015 IN FAST/33151/2014

WITH

CA/16568/2016 IN FAST/33151/2014

THE STATE OF MAHARASHTRA

VERSUS

HARIBHAU KISAN KAPSE AND OTHERS

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AGP for Appellant : Mr. S.M. Ganachari

Advocate for Respondent Nos. 1, 2, 3A, to 3D : Mr. M.S. Ghatge
h/f. Mr. M R Sonawane

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CORAM : P.R. BORA, J.

Dated: June 16, 2017

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PER COURT :-

1. The State has filed the present appeal taking exception to the judgment and award passed by the Civil Judge, Senior division, at Srigonda, district Ahmednagar, in LAR No.467/2003 (Old No.102/1998) decided on 14th of June, 2007. Since the appeal could not be filed within the period of limitation, the State has filed the present application seeking condonation of delay. Delay of 2292 days has occurred in filing the present appeal.

2. The record further shows that during pendency of the present application since it was noticed that respondent no.4 has expired. An application has also been filed bearing C.A.No.16568/2016 praying for taking on record the legal representatives of deceased respondent no.4. In the said -

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(2)

CA NO.1296 OF 2015

application, the State has also prayed for condonation of delay which has occurred in making an application for bringing on record the legal heirs of respondent no.4. The delay stated to be caused in filing the said application is of 2924 days.

3. When both the above applications were taken up for hearing and a query was made to the learned A.G.P. to apprise the Court as about the acquisition proceedings and the precise objection of the State in exception to the impugned judgment, the learned Counsel submitted that 41 Are land was acquired possession of which was taken in the year 1991 on 2nd of March. The award under Section 11 was passed on 28.9.1995. The Special Land Acquisition Officer had offered the compensation at the rate of Rs.560/- per Are for Jirayat land. The Reference Court has enhanced the said amount of compensation by determining the market value at the rate of Rs.1900/- per Are.

4. Perusal of the judgment and more particularly paragraph no.13 of the said judgment reveals that the 7/12 extract of the subject land was perused by the Reference Court and it was noticed by the Reference Court that the subject land was being irrigated from well water since 1989-1990. Learned Reference Court, therefore, held the subject land to be irrigated land and, accordingly, determined the market value of the acquired land. On perusal of the impugned judgment, apparently, it does not appear that the Reference Court has committed any error in -

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
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(3)

CA NO.1296 OF 2015

determining the market value of the subject land.

5. Having regard to the fact that the subject land was admeasuring only 41 Are and the amount of compensation enhanced was Rs.77,900/-, it does not appear to me that there is any point in keeping the present matter pending for considering the applications for delay condonation or taking the legal representations of respondent no.4 on record. As I have stated earlier, the possession of the land was taken in the year 1991, the award under Section 11 was passed in the year 1995. The Reference Court had decided the matter in the year 2007. Considering all above facts, I am not inclined to condone the delay which has occurred in filing the present appeal. Even the delay has not been sufficiently explained. The reasons which are assigned are apparently unacceptable.

6. After having considered the facts of the matter, the application for condonation of delay as well the Appeal on Stamp number, both are rejected on merits. The other Civil Applications, if any, stand disposed of.

(P.R. BORA, J.)

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agp/-