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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO.491 OF 2017
IN/WITH
CIVIL REVISION APPLICATION (ST.) NO.38957 OF 2016**

1. Ramkishan Khandu Gaware,
Age: Major, Occu: Agri.

2. Arun Khandu Gaware,
Age: Major, Occu: Agri.,

Both R/o. Adsulwadi, Tq. Kallamb,
Dist. Osmanabad

..APPLICANTS

VERSUS

1. The State of Maharashtra,
Through Collector, Osmanabad

2. The Special Land Acquisition Officer,
Medium Project No.2, Osmanabad

3. The Executive Engineer,
Minor Irrigation Division,
Zilla Parishad, Osmanabad

..RESPONDENTS

Mr A. R. Barate, Advocate for applicants;

Mr C. V. Dharurkar, Assistant Govt. Pleader for respondent Nos.1 & 2

CORAM : N.W. SAMBRE, J.

DATE : 16th June, 2017

ORAL ORDER

By Civil Application No.491 of 2017, the applicants seek condonation of delay of 665 days caused in preferring the civil revision application.

(2)

2. Learned A.G.P. opposed the prayer for condonation of delay. However, having regard to the cause involved in the civil revision application and for the reasons disclosed in the civil application, delay is condoned, subject to payment of costs of Rs.3,000/- to be deposited with Advocates' Association of Bombay High Court at Aurangabad within a period of two weeks from today.

3. With the consent of the parties, the revision is taken up for final disposal at this stage. None appears on behalf of respondent No.3 though duly served on application for condonation of delay.

4. Land Acquisition Reference No.501 of 2007 was preferred by the present applicants on the file Civil Judge Senior Division, through the Collector Osmanabad. The said proceedings was listed on 29th November, 2014 before the Court of Joint Civil Judge Senior Division, who was pleased to reject the same as the present applicants though were given sufficient opportunity had not led any evidence in support of their claim.

5. Learned Counsel appearing on behalf of the applicants, at this stage, makes a categorical statement, upon instructions, that from 19th August, 2013 till this date the applicants shall not claim any interest on the enhanced compensation. The said statement is accepted as an undertaking. Accordingly, it is declared that the applicants will not be entitled for any interest on enhanced compensation from 19th August, 2013 till this date.

(3)

6. However, having regard to the fact that the applicants are agriculturists whose entire land but for 0.18 R has been acquired, in my opinion, it will be appropriate to grant an opportunity, in the interest of justice, to pursue the Reference for enhancement of compensation before the learned Civil Judge Senior Division, Osmanabad.

7. Accordingly, judgment and order dated 29th November, 2014, passed by Joint Civil Judge Senior Division, Osmanabad, in L.A.R. No.501 of 2007, is hereby set aside and the said proceedings stands restored.

The Reference Court is directed to decide the Reference afresh, in accordance with law, after giving an opportunity to the applicants to lead evidence.

Civil Revision Application stands partly allowed in above terms.

(N.W. SAMBRE, J.)

amj