IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.5080 OF 2001
AND
CIVIL APPLICATION NO.5081 OF 2001
IN
FIRST APPEAL (ST) NO.12511 OF 1999
WITH
FIRST APPEAL (ST) NO.12511 OF 1999

The State of Maharashtra ..Appellant
V/s.
Jagannath Sahebrao Wabale ..Respondent

WITH
CIVIL APPLICATION NO.369 OF 2017
IN
FIRST APPEAL (ST) NO.12511 OF 1999

Maharashtra Krishna Valley
Development Corporation ..Applicant
(Intervenor)
V/s.
The State of Maharashtra & Anr. ..Respondents

WITH
CIVIL APPLICATION NO.5059 OF 2001
AND
CIVIL APPLICATION NO. 5060 OF 2001
IN
FIRST APPEAL (ST) NO.11677 OF 1999
WITH
FIRST APPEAL (ST) NO.11677 OF 1999

The State of Maharashtra ..Appellant
V/s.
Shri.Changdev Kishan Mali & Anr. ..Respondents

WITH
CIVIL APPLICATION NO.371 OF 2017
IN
FIRST APPEAL (ST) NO.11677 OF 1999

Maharashtra Krishna Valley
Development Corporation ..Applicant
(Intervenor)

V/s.

The State of Maharashtra & Ors. ..Respondents

WITH

CIVIL APPLICATION NO.5071 OF 2001

AND

CIVIL APPLICATION NO. 5072 OF 2001

IN

FIRST APPEAL (ST) NO.13305 OF 1999

WITH

FIRST APPEAL (ST) NO.13305 OF 1999

The State of Maharashtra ..Applicant

V/s.

Shri.Shivaji Dattu Jagtap ..Respondent

WITH

CIVIL APPLICATION NO.374 OF 2017

IN

FIRST APPEAL (ST) NO.13305 OF 1999

Maharashtra Krishna Valley
Development Corporation ..Applicant
(Intervenor)

V/s.

The State of Maharashtra & Ors. ..Respondents

WITH

CIVIL APPLICATION NO.5053 OF 2001

AND

CIVIL APPLICATION NO. 5054 OF 2001

IN

FIRST APPEAL (ST) NO.12546 OF 1999

WITH

FIRST APPEAL (ST) NO.12546 OF 1999

The State of Maharashtra ..Applicant

V/s.

Shankar Eknath Rakate
(Deceased through Legal Heirs)
a. Mahadeo Shankar Rakate & Ors. ..Respondents

WITH

CIVIL APPLICATION NO.373 OF 2017

IN

FIRST APPEAL (ST) NO.12546 OF 1999

Maharashtra Krishna Valley
Development Corporation ..Applicant
(Intervenor)

V/s.

The State of Maharashtra & Ors. ..Respondents

WITH

CIVIL APPLICATION NO.5055 OF 2001

AND

CIVIL APPLICATION NO. 5056 OF 2001

IN

FIRST APPEAL (ST) NO.13330 OF 1999

WITH

FIRST APPEAL (ST) NO.13330 OF 1999

The State of Maharashtra ..Applicant

V/s.

Shri.Bhimrao Atmaram Awachat & Anr. ..Respondents

WITH

CIVIL APPLICATION NO.375 OF 2017

IN

FIRST APPEAL (ST) NO.13330 OF 1999

Maharashtra Krishna Valley
Development Corporation ..Applicant
(Intervenor)

V/s.

The State of Maharashtra & Ors. ..Respondents

WITH

CIVIL APPLICATION NO.5075 OF 2001

AND

CIVIL APPLICATION NO. 5076 OF 2001

IN

FIRST APPEAL (ST) NO.11689 OF 1999

WITH

FIRST APPEAL (ST) NO.11689 OF 1999

The State of Maharashtra ..Applicant

V/s.

Changdeo Shyamrao Chorgadhe
& Anr. ..Respondents

WITH

CIVIL APPLICATION NO.372 OF 2017

IN

FIRST APPEAL (ST) NO.11689 OF 1999

Maharashtra Krishna Valley
Development Corporation ..Applicant
(Intervenor)

V/s.

The State of Maharashtra & Ors. ..Respondents

WITH
CIVIL APPLICATION NO.5047 OF 2001
AND
CIVIL APPLICATION NO. 5048 OF 2001
IN
FIRST APPEAL (ST) NO.11675 OF 1999
WITH
FIRST APPEAL (ST) NO.11675 OF 1999

The State of Maharashtra ..Applicant
V/s.
Kusum Bhikaji Kulkarni & Ors. ..Respondents

WITH
CIVIL APPLICATION NO.376 OF 2017
IN
FIRST APPEAL (ST) NO.11675 OF 1999

Maharashtra Krishna Valley
Development Corporation ..Applicant (Intervenor)
V/s.
The State of Maharashtra & Ors. ..Respondents

Mr.Y.Y. Dabke and Mr.A.A. Palkar for the Applicant/Appellant-State.
Mr.D.D. Shinde for the Applicant-Intervenor in CAF No.375 of 2017.

CORAM : M. S. SONAK, J.
DATE : 06 FEBRUARY 2017.

ORAL JUDGMENT :

1. Heard Mr.Dabke and Mr.Palkar, learned Assistant Government Pleaders (AGPs) for the appellant/applicant-State.

2. These civil applications have been taken out for condonation of delay in institution of the appeals against the awards made by the Reference Court. Some of the civil applications seek condonation of delay to set aside the abatement and leave to bring legal representatives of the deceased respondents on record. The appeals were instituted in

the year 1999 to challenge the awards made by the Reference Court in the year 1997-1998. The applications for condonation of delay were, however, filed in most cases, after the period of almost two years from the date of institution of the appeals, i.e., in the year 2001 or thereabouts. These matters have come up before the Registrar (Judicial) as well as the Court on several occasions, mostly because no steps were taken by the appellant State to serve notices upon the respondents or to bring the legal representatives of the deceased respondents on record. For the last 18 years, these matters have been going on and even today, we are only at the stage of considering the applications for condonation of delay to set aside abatement and bring on record legal representatives of the deceased respondents. Even now, several applications are not ready for hearing, since, steps for service are yet to be taken by the appellant-State.

3. In all these cases, the lands of the respondents were compulsorily acquired sometime in the year 1974-75, The Reference Court, by the impugned awards made in 1997-1998, had marginally enhanced the compensation awarded by the Land Acquisition Officer. This enhanced amount in its entirety, in all these appeals, ranges between Rs.520/- to Rs.7,670/-. This is the entire amount of compensation and not per square meters rate or per square yard rate. A chart indicating the total compensation amount involved in each of these appeals is set out herein:-

Sr.No	No. of Appeal	Compensation Amount
1	FAST 12511/1999	Rs.520/-
2	FAST 11677/1999	Rs.1,552/-
3	FAST 13305/1999	Rs.2,030/-
4	FAST 12546/1999	Rs.2,716/-
5	FAST 13330/1999	Rs.2,860/-
6	FAST 11689/1999	Rs.5,220/-
7	FAST 11675/1999	Rs.7,670/-

4. There are several such matters where the stakes do not even exceed Rs.25000/- in entirety. However, learned AGPs state that they are in no position to furnish a list of such matters. The Registry Officials also state that they will have to check every single file manually in order to determine the amount of compensation and this will involve considerable time and energy. They point out that there is already severe pressure upon the staff, which deals with such matters.

5. Learned AGPs also candidly state that neither they nor any officials at the State level will be in a position to take any decision in the matter of pursuing such applications or such appeals where stakes do not even exceed Rs.25,000/- in their

entirety. Instead, they urge that some more time may be granted to take steps. They submit that thereafter the applications for condonation of delay be allowed, appeals be admitted, notices to be issued to the respondents, records and proceedings be called for and paper-books be prepared and the matters be listed for final hearing in a due course of time. This means that this process will go on for at least next four to five years, in the least.

6. All this has resulted in depriving the respondents, whose lands came to be compulsorily acquired in the year 1974-1975, a meagre compensation ranging between Rs.520/- to Rs.7,670/-. Such an approach on the part of the State and acquiring bodies, cannot be regarded as fair or reasonable. It is possible that such appeals are preferred so as to prevent further enhancement under Section 28A of the Land Acquisition Act, 1894, on the basis of the impugned awards. It is also possible that such appeals are preferred, so that, the impugned awards are not cited as a precedent in other land acquisition cases, where the stakes might be considerably higher. It is also possible that such appeals are preferred to preempt any challenges based upon the doctrine of estoppel or waiver. It is also possible that such appeals are preferred because none of the officials wish to assume any responsibility or take any decisions in the matter. It is also possible that such appeals are preferred because the officials deem it safer to let the Courts decide such matters. However, for all such purposes, it is

necessary that the State or the acquiring bodies formulate some policy, which can address all such concerns and at the same time not unnecessarily vex land losers, who have been awarded meagre compensation, say, not exceeding Rs.25,000/- in entirety or some other suitable limit.

7. From time to time, Central Board of Direct Taxes (CBDT) formulates policies in matters relating to the institution of appeals under Section 260A of the Income Tax Act 1961. The CBDT circulars, in which such policies are formulated, provide that no appeal will be instituted when the tax effect is below the specified limit, which is presently stated to be Rs.20 lakhs. Such circulars address the concerns of the revenue and to a great extent immunize the revenue against the contentions based upon estoppel, waiver etc. At the same time, such policies prevent undue hardship to the tax payers. Such policies also assist in the reduction of pointless litigation before the High Courts and Supreme Court.

8. If the litigation involved in the present batch of appeals is to serve any purpose, it is high time that the State and acquiring bodies consider the formulation of similar policies in Land Acquisition matters, particularly were stakes do not exceed some specified limit, say Rs.25,000/-, or, by now, even some higher limit. Such policies are necessary, because it is really unreasonable to except land losers, or most of the times, their legal representatives, to even contest such matters

at the High Court. Infact, the entire compensation awarded to them is so meagre, that it might not even suffice the travel, lodging and boarding expenses to Bombay.

9. In ***Dilbagh Rai Jarry V/s. Union of India & Ors. - (1974) 3 Supreme Court Cases 554***, the Hon'ble Supreme Court, speaking through Justice Krishna Iyer made scathing comments on the litigative tendencies of the State Governments, in the following terms:

> "*The State is a virtuous litigant and looks with unconcern on immoral forensic successes so that if on the merits the case is weak, government shows a willingness to settle the dispute regardless of prestige and other lesser motivations which move private parties to fight in court. The lay-out on litigation costs and executive time by the State and its agencies is so staggering these days because of the large amount of litigation in which it is involved that a positive and wholesome policy of cutting back on the volume of law suits by the twin methods of not being tempted into forensic show-downs where a reasonable adjustment is feasible and ever offering to extinguish a pending proceeding on just terms, giving the legal mentors of government some initiative and authority in this behalf. I am not indulging in any judicial homily but only echoing the dynamic national policy on State litigation evolved at a Conference of Law Ministers of India way back in 1957. This second appeal strikes me as an instance of disregard of that policy.*"

10. In ***Urban Improvement Trust, Bikaner V/s. Mohan Lal - (2010) 1 Supreme Court Cases 512,*** the Hon'ble Supreme Court noted that unwarranted litigation by the Government and statutory authorities basically stems from the two general baseless assumptions by their officers. First, all claims against the

Government/statutory authorities should be viewed as illegal and should be resisted and fought up to the highest court of the land. Second, if taking a decision on an issue could be avoided, then it is prudent not to decide the issue and let the aggrieved party approach the Court and secure a decision in the matter. The reluctance to take decisions, or tendency to challenge all orders against them, is not the policy of the Governments or statutory authorities, but is attributable to some officers who are responsible for taking decisions and/or officers in charge of litigation. Their reluctance arises from an instinctive tendency to protect themselves against any future accusations of wrong decision making, or worse, of improper motives for any decision making. Unless their insecurity and fear is addressed, officers will continue to pass on the responsibility of decision making to courts and Tribunals.

11. In ***Gurgaon Gramin Bank V/s. Khazani & Another - (2012) 8 Supreme Court Cases 781,*** the bank carried the matter of award of compensation of Rs.15,000/- towards death of a buffalo, right upto to the Hon'ble Supreme Court. When the matter came up for hearing on 9 July 2012, the Hon'ble Supreme Court required the bank to file an affidavit disclosing the amount bank had spent till date on the dispute. The Hon'ble Supreme Court noted that the amount spent was Rs.12,950/-, excluding money spent by the bank officers for their to and fro journey from the lawyer's office, District Forum, State Forum, National Commission and finally, the Hon'ble Supreme Court. The amount also did not include the legal fees paid to the advocates before all these fora and the Hon'ble Supreme Court. In such circumstances, the Hon'ble Supreme Court made scathing comments upon the approach of the bank and dismissed

the matter with costs of Rs.10,000/-.

12. In land acquisition matters, the State is expected to exhibit greater sensitivity. In ***Bhusawal Municipal Council V/s. Nivruti Ramchandra Phalak and Others - (2015) 14 Supreme Court Cases 327,*** the Hon'ble Supreme Court has held that the judicial process of the court cannot subvert justice and therefore the State/authorities ought not to drag a poor uprooted claimants even for payment of a paltry amount up to the Hon'ble Supreme Court, wasting the public money in such luxury litigation without realising that poor litigants cannot afford the exorbitant costs of litigation and, unfortunately, no superior officer of the State is accountable for such unreasonable conduct. The Hon'ble Supreme Court has held that a farmer's life is a tale of continuous experimentation and struggle for existence. Mere words or a visual can never convey what it means to live a life as an Indian farmer. Unless one experiences their struggle, that headache he will never know how it feels. The risks faced by the farming community are many; they relate to natural calamities such as drought and floods; high fluctuation in the prices of input as well as output, over which he has no control whatsoever; a credit system which never extends a helping hand to the neediest; domination by middlemen who enjoy the fruits of a farmer's hard work; spurious inputs, and the recent phenomenon of labour shortages, which can be conveniently added to his tale of woes. Of late, there have been many cases of desperate farmers ending their lives in different parts of the country. The Principles of Economics provides for the producer of a commodity to determine his prices but an Indian farmer perhaps is the only exception to this principle of economics, for even getting a decent

price for their produce is difficult for them.

13. Finally, the Hon'ble Supreme Court has quoted the words of Justice Brennan, which read thus:

> *"Nothing rankles more in the human heart than a brooding sense of injustice. Illness we can put up with. But injustice makes us want to pull things down. When only the rich can enjoy the law, as a doubtful luxury, and the poor, who need it most, cannot have it because its expense puts it beyond their reach, the threat to the continued existence of free democracy is not imaginary but very real, because democracy's very life depends upon making the machinery of justice so effective that every citizen shall believe in and benefit by its impartiality and fairness."*

14. The Central Government has formulated ***"The National Litigation Policy"*** this inter-alia provides that the Government must cease to be a compulsive litigant. The philosophy that matters should be left to the courts for ultimate decision has to be discarded. The easy approach, "Let the court decide," must be eschewed and condemned. The purpose underlying this policy is also to reduce government litigation in courts so that valuable court time would be spent in resolving other pending cases so as to achieve the Goal in the national legal mission to reduce average pendency time from 15 years to 3 years. Litigators on behalf of Government have to keep in mind the principles incorporated in the National mission for judicial reforms which includes identifying bottlenecks which the Government and its agencies may be concerned with and also removing unnecessary Government cases. Prioritisation in litigation has to be achieved with particular emphasis on welfare legislation, social reform, weaker sections and senior citizens and other categories requiring assistance must be given utmost priority.

15. The National Litigation Policy goes on to advert to several measures, including in particular measures relating to filing of appeal or the delay in filing of appeals. If the litigation policy is to mean anything in practice, then, emergent steps are expected in matters like the present first appeals.

16. As noted earlier, all these matters relate to the acquisition of lands in the year 1974-1975. The Reference Court made its awards in the year 1997-1998. The enhanced compensation in its entirety ranges between Rs.520/- and Rs.7,670/-. The matters are pending for last 20 years in this court merely on account of lack of diligence on the part of the State in effecting service or in taking steps to bring on record the legal representatives of the respondents-landlosers. Over these matters, several members of the Registry as well as the Court have spent enormous amount of time. If considered cumulatively, the State and the acquiring bodies have spent a minimum of Rs.20,000/- in each of these matters, only by way of court fees, typing expenses, postage, travel of officers, lawyers' fees etc. All this, only to deprive the landlosers of meagre compensation ranging between Rs.520/- and Rs.7670/- in entirety, in each of these appeals.

17. There is no case made out at this length of time to show any further indulgence to the State/authorities. Upon cumulative consideration of all such factors, the civil applications and consequently the appeals themselves are liable to be dismissed and are hereby dismissed.

18. The learned AGPs are requested to forward a copy of

this order to the Chief Secretary, State of Maharashtra, who shall consider formulating a policy, so that land acquisition matters in which the stakes do not exceed some specified limit, say of Rs.25,000/- or even some higher limit, are either not filed in the High Court or, if already filed, are withdrawn without any further wastage of time.

19. In these matters, however, it is made clear that the rates determined by the Reference Court may not be taken as approved by this Court, particularly, taking into consideration the circumstances in which the civil applications and consequently the appeals have been dismissed.

20. The civil applications and the appeals are consequently dismissed. There shall however, be no order as to costs.

(M. S. SONAK, J.)