

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.906 OF 2003
IN
FIRST APPEAL (ST) NO.28160 OF 1997
WITH
CIVIL APPLICATION NO.907 OF 2003
IN
FIRST APPEAL (ST) NO.28160 OF 1997**

The State of Maharashtra
(Through the Special Land
Acquisition Officer, Nashik)

..Applicant/Appellant

V/s.

Shri.Shivram Kashinath Mali & Ors.

..Respondents

Mr.Yogesh Y. Dabke, AGP for Applicant/Appellant-State.

CORAM : M. S. SONAK, J.

DATE : 31 JANUARY 2017.

P.C.

1. This Civil Application seeks condonation of delay of one year 22 days in instituting the appeal against award dated 28-12-1995 made by the reference Court.

2. Although, the appeal and Civil application of condonation of delay were instituted in the years 1997 and 1998 respectively, on account of failure to take steps the Civil application would be numbered only in the year 2003. Even today, only respondent Nos.1 and 3 are duly served and the notice addressed to the respondent Nos.2 and 4 has been returned with the remark "Dead". From time to time, opportunity was granted to the

applicants to take steps and even ad-interim relief, if any, was ordered to continue. However, it does not appear that steps were not taken to the due indulgence. The Civil Application obviously cannot proceed against the deceased respondent nos.2 and 4. No steps have been taken to bring on record their legal representatives.

3. From the perusal of the impugned award as well as the memo of appeal, it appears that the quantum of the enhanced compensation comes to hardly Rs.6,036/-. In fact the appeal is valued for the purposes of Court fees and only Rs.6,036/-. As noted earlier, the appeal relates to the year 1997.

4. The reasons for condonation of delay also do not spell out a sufficient cause. At this point of time it will be quite inequitable to permit the state to pursue the appeal instituted in the year 1997, particularly when the quantum of enhanced compensation is hardly Rs.6,036/-. Respondent Nos.2 and 4 have already expired.

5. The aforesaid reasons the Civil Application and the consequently the appeal itself stands dismissed. Ad-interim order, if any, stands vacated.

(M. S. SONAK, J.)