

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1771 OF 2013
AND
CIVIL APPLICATION NO. 1029 OF 2014
IN
FIRST APPEAL (ST) NO. 18310 OF 2008

The State of Maharashtra .. Appellant
vs.
Narayan S. Kadlag and anr. .. Respondents

Mr. Y.Y. Dabke, Asst. Government Pleader for the Appellant-State.
Mr. Abhijit Singh i/b Ms Pallavi Potnis for Respondent No.1.
Mr. D.D. Shinde for Respondent No.2.

CORAM : M. S. SONAK, J.
DATE : 10 FEBRUARY 2017.

P.C. :-

1] The delay in instituting the appeal against the judgment and award dated 25 July 2007, is of 202 days. The impugned award relates to the acquisition of the year 1993. The appeal was instituted in the year 2008, but even the application for condonation could not be taken out primarily on account of lack of diligence in taking steps to serve the respondents.

2] Although, the reasons set out in the application seeking condonation of delay are not entirely satisfactory. Mr. Dabke, learned Asst. Govt. Pleader points out that Civil Application No. 1770 of 2013, similar reason was stated and this court has condoned the delay of 202 days by imposition of costs of Rs.10,000/-. Mr. Dabke submits that the same course should be adopted in this civil application as well.

3] Normally, there was no difficulty in adopting a similar course. However, upon perusal of the impugned award, it is seen that even the enhanced compensation awarded to the respondent-claimant in its entirety is of Rs.15,954/- only. In fact, the principal amount is hardly Rs. 8,309/- awarded towards the house of the respondent-claimant which was submerged in the irrigation dam waters. Now, if the State is required to pay Rs.10,000/- by way of costs alone, in order to ultimately deprive the respondent-claimant's meagre compensation of Rs. 8,309/-, which has together with interest come up to Rs.15,954/-, this would be neither fair to the State nor to the respondent-claimant. Possibly on basis of pendency of this proceedings, the respondent-claimant has been deprived of even this meagre compensation since the year 2007.

4] In the facts and circumstances of the present case, the civil application seeking condonation of delay and consequent the appeal are dismissed without any order as to costs. The civil application for stay does not survive and the same is also disposed of.

5] Since the application for condonation of delay as well as the appeal is being disposed of upon cumulative consideration of the aforesaid circumstances, including in particular, the meagre amount of compensation involved, it is made clear that this order shall not be taken as confirmation of the rate awarded in the impugned award.

(M. S. SONAK, J.)