

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

**CIVIL APPLICATION NO.5015 OF 2001
IN
FIRST APPEAL (ST) NO.4510 OF 1999
WITH
CIVIL APPLICATION NO.9087 OF 1999
IN
FIRST APPEAL (ST) NO.4510 OF 1999
WITH
CIVIL APPLICATION NO.9088 OF 1999
IN
FIRST APPEAL (ST) NO.4510 OF 1999**

The State of Maharashtra
(Through The Special Land
Acquisition Officer)

..Applicant/Appellant

V/s.

Govind Balya Bhagat & Ors.

..Respondent

Mr.Y.Y. Dabke, AGP for the Applicant-Appellant-State.

Mr.G.S. Hiranandani i/by Mr.C.G. Gavnekar for Respondent Nos.1
to 3.

CORAM : M. S. SONAK, J.

DATE : 20 FEBRUARY 2017.

P.C.

1. This Civil Application seeks to bring on record legal representatives of the deceased respondent No.4. Since, the application was moved 9 years beyond the prescribed period of limitation, there was a prayer clause seeking condonation of delay.

2. Notice was ordered to the proposed respondents on 14 August 2001 and the same was returnable after two weeks. From 14 August 2001, however, the matter is pending since, no proper steps have been taken to effect service upon the proposed respondents. Time was granted on several occasions and even assurance were accepted on several occasions that necessary steps will be taken to complete the service.

3. The record indicates that several other parties have also expired in the meanwhile for which, the State is required to take further steps.

4. Ultimately on 09 January 2017 this Court made the following order :-

“1) Steps to be taken to serve unserved respondents within a period of four week from today. This is by way of last opportunity. The noting indicates that some of the respondents have expired. Therefore, liberty is granted to appellant-State to take steps to file appropriate application seeking setting aside of the abatement and explain delay for taking out such application.

2. If within four weeks from today, service is not effected or steps are not taken for effecting service, the civil applications to stand dismissed as against the unserved respondents without any further reference to this Court. In any case, place this matter on 20 February 2017, irrespective of whether or not service is effected

upon the unserved respondents.”

5. The learned AGP states that on 13 January 2017 a letter was sent from the office of the Government Pleader to the Deputy Collector of Land acquisition to requesting him to furnish information so that steps can be taken. Mr.Dabke states that there is no response from the Deputy Collector. The office noting indicates that respondent No.4C to 4I are served. Further, notice to respondent no.4A is yet to be returned. The respondent No.4B has already expired. Nothing also indicates that as per Courts order dated 09-01-2017 no steps have been taken till date.

6. As noted earlier, first Appeal relates to the year 1999. It is apparent that no proper steps are to be taken to serve the unserved respondents and to bring on record the legal representatives of the respondents. In such circumstances the Civil Application No.5015 of 2001 is liable to be dismissed and the same is dismissed. In view of the dismissal of this Civil Application there arises no question of considering Civil Application No.9087 of 1999 which seeks condonation of delay in instituting the appeal. Again, although the delay is of hardly 170 days, since, service is not complete and in the meanwhile some respondents have expired and

no steps are taken to bring on record their legal representatives, it is not possible to proceed with the Civil Application No.9087 of 1999 as such. The Civil Application no.9087 of 1999 is also dismissed. As a consequence First Appeal Stamp No.4510 of 1999 does not survive and the same is also dismissed. The interim order, if any, stands vacated.

7. In view of the dismissal of the Appeal, the Civil Application No.9088 of 1999 for Stay is also does not survive and the same is disposed of.

(M. S. SONAK, J.)