

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

**CIVIL APPLICATION NO.3584 OF 2001
IN
FIRST APPEAL (ST) NO.19924 OF 1997**

The State of Maharashtra	..Applicant/Appellant
V/s.	
Shri.Shamu Ganu Yedake & Ors.	..Respondents

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

CORAM : M. S. SONAK, J.

DATE : 06 FEBRUARY 2017.

P.C.

1. By this Civil Application the state seeks condonation of delay of 1180 days in instituting appeal against award dated 02-12-1993.

2. The amount of enhanced compensation involved in the appeal is Rs.24,060/-. There was delay in taking up the Civil Application for consideration, since, no effective steps were taken to serve the respondents. Infact, the Civil Application stands dismissed as against respondent No.1 and it is really doubtful whether the Civil Application can proceed against the remaining respondents, in

the absence of any plea to set aside the dismissal as against respondent No.1. Be that as it may, it is quite clear that there is no sufficient cause shown for condoning such inordinate delay in instituting the appeal.

3. The impugned award was made on 02-02-1993 and the certified copy was received on 04-04-1994. Between 04-04-1994 and 13-12-1995, which is a very substantial period, it is submitted that the office of the District Pleader addressed no intimation to the State Government, since, there was some process of shifting of office. Such explanation, which is bereft of any particulars or details cannot be accepted just for the asking. Besides, there is inconsistency in the dates. On one hand, it is submitted that the office of the District Government Pleader submitted report to the State Government on 30-12-1995 and on the other hand it is stated that the Law and Judiciary Department resolved to file appeal on 03-11-1995. After all this, it is stated that the resolution as well as certified copy was received in the Government Pleaders Office on 29-01-1996. Despite all this, the appeal came to be filed on 01-08-1997. Insofar as this delay is concerned there is really no satisfactory explanation that decisions are required to be taken at various levels and therefore delay is inequitable, and it cannot be

accepted as a matter of routine. In this case, the effect of the enhanced compensation is less than Rs.25,000/-. On the basis of the pendency of the matter, it is possible that the land losers have been deprived from the compensation.

4. In *State of Maharashtra & Ors. V/s. Vithu Govari & Ors. 2008(6) Mh.L.J.* a Division Bench of this Court has made the following observations in the context of the mechanical manner in which the appeals are filed in the land acquisition cases beyond the prescribed period of limitation and then, some routine reasons are cited in lieu of sufficient cause. *“The submission that delay has occurred because of “official hassle” and approval at different levels. This is a case which can hardly justify condonation of delay. The hassles which in any case are unspecified in the application can always be set right by the applicants and the approval can be granted expeditiously. However, as already noticed, in the present case, there is no explanation even for a period of two years. The other point raised on behalf of the applicant is that if delay is condoned, it would cause no prejudice to the claimants. This argument is equally without any merit. In law advantage has accrued to the non-applicants claimants and the same ought not to be withdrawn in a mechanical manner and*

that too without any sufficient cause being shown to the applicants. This itself is the prejudice to the claimants. Before the delay can be condoned and claimants can be subjected to a prolonged litigation, the onus to show sufficient cause lies is upon the applicant State. The lands have been acquired by the State in exercise of its statutory power and eminent domain. The claimants are owners of small parcel/parts of lands varying between 2000 and 4000 sq. mtrs. and deprivation of their legitimate dues on account of compensation would not be in the interest of justice. Secondly, the claimants have not been paid their enhanced compensation for a considerable time and/or they have not received the same. If the appeals are admitted and interim orders are passed, it obviously will result in affecting the rights of the claimants to receive the enhanced compensation, adversely.”

5. The Division Bench, in paragraph 12 has made the following observations:-

“12. Before these files are consigned to record room, the Courts cannot help but notice that most of the appeals filed on behalf of the State are barred by time and the delay normally is inordinate. They suffer from defect of inordinate delay. Normally, it is expected of the State, in the modern times and with modern amenities and infrastructure, to govern its

affairs to the much expected standards. It hardly stands to reason that most of the appeals filed by the State, particularly in land acquisition matters, should be barred by time. They are filed after much delay and normally after considerable delay which remains unexplained and is ex facie unjustified. Filing of appeal within limitation is an exception but filing appeals barred by time is the rule. Filing appeal in a mechanical manner beyond the period of limitation has become a rule. This needs to be checked by the concerned authorities at the earliest. Unreasonable delay on the part of the concerned authority in completion of execution proceedings, disbursement of compensation, determination of compensation and then in filing legal proceedings include the appeals invites twin disadvantages that are opposed to public policy and even good governance. Firstly, even in good cases because of inordinate and unexplained delay, the Court may decline to entertain the appeals. Secondly, the liability of statutory interest increases every passing day which burdens the public exchequer. Both these adverse rigors could be avoided by timely and co-ordinate actions. The authorities are required to have a more practical and pragmatic approach to provide solution to this problem. The inordinate delays occurring from inaction or non-co-operation of the departments, as is demonstrated by the facts of

the present cases, needs to be corrected and it will be desirable to fix the responsibility of the erring officer/official. The concept of public accountability for default of performance of statutory and public duties relatable to the powers vested in the authorities under the Act or other administrative authorities, is squarely applicable. In the case of Mahender Kumar v. Land Acquisition Collector (2006) 5 AD 420, the Court after discussing various judgments of the Supreme Court in great detail held that actions of administrative authorities are accountable and doctrine of full pay and credit is applicable in discharge of their duties. Their actions, besides being open to judicial review, would attract judicial chasticism if there is complete negligence and non-cooperation in functioning of the authority merely in furtherance to statutory powers. The doctrine of public accountability would require authorities to act timely and be responsible for their acts. Development of law which has even extended to which the State is liable to compensate for loss or injury suffered by a citizen due to arbitrary action of employees of the State. Reference can be made to the case of Lucknow Development Authority v. M. K. Gupta . In the case in hand, we have already noticed that there is not even an iota of explanation rendered for complete non-cooperation and inordinate delay of more than two years. In fact, in

one case, there is not even an indication as to what steps were taken with effect from 29th June 2005 to 3rd March 2007 i.e. for nearly two years in C.A. No. 3200 of 2007 while with effect from 24th June 2005 to 15th May 2007 in C.A. No. 5422 of 2008, there is not even an averment in that action or step was taken by any concerned authority during this long period which ultimately resulted in delay of more than 2 years and 45 days in filing of these appeals. Somebody has to own this responsibility. It is expected of the competent authority to fix responsibility of the erring officer/officials and to provide proper guidelines. Thus, while dismissing these Civil Applications/ Appeals, we feel duty bound to issue certain directions to the Respondent State. Thus, the following directions are issued:

(a) The State Government shall constitute a Committee presided over by the Chief Secretary of the State, which shall issue guidelines to ensure that appeals on behalf of the State in land acquisition matters are filed within the prescribed period of limitation.

(b) Under the directions/guidelines issued through appropriate Government Resolution, complete time frame should be provided for applying and/or receiving certified copies, preparation of appeals, sanctioning of requisite funds, drawing up and filing of appeals.

(c) These guidelines should also provide for due co-operation and co-ordination between different Departments of the State Government.

(d) Concerned authorities may also examine constituting a 'centralised nodal office' to ensure timely filing of appeals in the High Court so as to avoid any consequences adverse to the interest of the State including burdening the public exchequer.

(e) The guidelines so framed shall also introduce the principle of public accountability and answerability for inaction/action of various authorities in the State hierarchy in such cases and for inordinate delay in filing the present cases, the State Government shall fix responsibility and take action in accordance with law.”

6. Despite the aforesaid, it cannot be said that the position has improved. The learned AGP was not even in position to state whether, directions issued by this Court in Vithu Govari (Supra) are being complied with or not.

7. Be as as it may, as noted earlier, in this case, no sufficient cause has been shown to condone delay the application already stands dismiss against respondent No.1. on failure to take effective steps for all these reasons the Civil Application is dismissed

consequently, the Appeal also stands dismissed. The ad-interim order, if any, stands vacated.

8. All concerned to act on the basis of the authenticated copy of this order.

(M. S. SONAK, J.)