

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION (ST.) NO. 26171 OF 2017
IN
REJECTED CASE NO. 720 OF 2009

Babu Khandu Pokharkar ...Applicant

IN THE MATTER BETWEEN

Babu Khandu Pokharkar ...Appellant

Versus

The State of Maharashtra
Through AGP, High Court, Mumbai & Ors. ...Respondents

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Mr.Gaurav Potnis i/b. Ms. Pallavi Potnis for the Applicants.
Mr.Yogesh Dabke, AGP for the State/Respondents.

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CORAM: MRS.MRIDULA BHATKAR, J.
DATE : DECEMBER 05, 2017

P.C.:

1. This Civil Application is moved for restoration of Civil Application (St.) No. 21937 of 2005 and First Appeal (St.) No. 21935 of 2005, which were dismissed for default by order dated 4th August, 2006 passed by this Court.

2. Learned counsel for the applicant submits that there is a delay of 11 years and 9 days in filing the Civil Application. He prays that

the Appeal and the Civil Application be restored and delay be condoned, as this Appeal can be referred to Lok Adalat, which is scheduled on 9th December, 2017.

3. Learned AGP for the respondents-State submits that this Appeal can be taken before Lok Adalat.

4. On perusal of the record, it appears that this Appeal remained on stamp number i.e. First Appeal (St.) No.21935 of 2005 and it was dismissed for non-removal of office objections, which were taken by the Registry. This Appeal was dismissed long back.

5. Learned counsel for the applicant submits that he will reconstruct the entire brief and also remove the office objections. He prays that he be allowed to reconstruct the brief.

6. Registry to accept the reconstruct brief.

7. This being an Appeal filed by the applicant/ claimant under the Land Acquisition Act and it can be restored on a condition that the applicant/claimant shall not claim interest during the period from 2006 to 2017 on the amount of compensation, if the amount is enhanced.

8. In view of the above, the order dated 4th August, 2006 of dismissing the First Appeal and Civil Application is hereby recalled. Delay of 11 years and 9 days in filing the Civil Application is condoned. First Appeal is restored to its original file alongwith Civil Application. The applicant to reconstruct the brief within a period of eight weeks from today.

9. Civil Application is allowed and is accordingly disposed of.

(MRIDULA BHATKAR, J.)