

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.**

**42 CIVIL APPLICATION NO.1905 OF 2018
IN FAST/1495/2018 WITH CA/1906/2018 IN
FAST/1695/2018 WITH CA/1907/2018 IN FAST/1700/2018
WITH CA/1908/2018 IN FAST/1697/2018**

MAHADEV KONDIRAM KADAM ..Applicant
VERSUS
THE STATE OF MAHARASHTRA AND ORS ..Respondents

...
Advocate for Applicant : Shri P. P. More;
AGP for Respondents No.1 & 2 : Ms S.S. Raut;
Respondent No.3 – Served.

...

CORAM : PR. BORA, J.

Dated: September 18, 2018

PER COURT :

1. Heard Shri PP. More the learned Counsel appearing for the applicants – Orig. claimants and Ms Raut the learned AGP appearing for respondents no.1 and 2 - State. Though the Acquiring Body is duly served, no one has caused appearance on its behalf.

2. Delay of 770 days has occurred in filing the present appeals by the original claimants. It is the contention of the applicants that, they came to know about passing of the orders in their reference application bit late and thereafter because of

the financial constraints they could not file the First Appeal before this Court. The learned Counsel for the applicants submitted that, the amount as was awarded by the reference Court also received after a long time and thereafter, obtaining certified copies, the applicants have preferred the present appeals. The learned Counsel submitted that, the applicants have good case on merits and in such circumstances, they need to be given an opportunity to prosecute their appeals on merits.

3. Learned AGP Ms Raut has opposed for condoning the delay stating that, the reasons as are assigned are insufficient to condone the huge delay of 770 days. In the alternative, the learned AGP submitted that if at all the Court is inclined to condone the delay, the applicants be disentitled from getting any interest for the period of delay.

4. After having considered the submissions and more particularly after having gone through the averments in the application, it appears that, the reasons which are assigned by the applicants cannot be outrightly rejected. Moreover, the learned Counsel Shri More has on instructions submitted that,

the claimants are ready to waive the interest of the period of delay.

5. In view of the submissions so made, the following order is passed.

ORDER

- (i) The delay caused in filing the appeals is condoned.
- (ii) Appeals be registered in accordance with law.
- (iii) It is clarified that, in the event of their success in the appeal, the appellants/ applicants shall not be entitled for any interest of the period of delay on the enhanced amount of compensation.
- (iv) The applicants shall file the necessary undertaking in that regard before this Court within four weeks.
- (v) Civil Applications for condonation of delay stand disposed of.
- (vi) The undertakings of the applicants as well as the copy of the present order be kept along with the papers of appeal.

(P.R. BORA, J.)