

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

934 CIVIL APPLICATION NO. 5090 OF 2018
IN FAST/3472/2018
WITH
CA/5091/2018 IN FAST/3474/2018 WITH CA/5093/2018
IN FAST/3457/2018

MACHINDRA HARIBHAU TONDE
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr. Savant Vilas P
Mr. AM Phule, AGP for Respondent-State.

CORAM : P.R.BORA, J.

DATE : 4th September, 2018.

PER COURT :

1. Heard Shri Savant, learned counsel appearing for applicants and learned AGP appearing for State.

2. Delay of 4350 days has occurred in filing these appeals by the original claimants seeking enhancement in the amount of compensation as awarded by the Reference Court.

3. Learned Counsel for the applicants submitted that the applicants are poor agriculturists residing in remote hilly areas. It

is further contended that unaware of the legal provisions, and more particularly as about limitation to prefer any such appeal and because of financial difficulties, the applicants could not approach this court with the first appeals within the stipulated period of limitation. The learned counsel submitted that in the year 2017, when the applicants came to know that in similar cases, the State Government has arrived at settlement in Lok Adalat with some other claimants and the amount of compensation is substantially enhanced, the applicants have approached this Court. The learned counsel submitted that the applicants have not received a single paisa till today towards the enhanced compensation, as has been enhanced by the Reference Court. The learned counsel submits that in view of the fact that similarly placed other agriculturists have received the benefits of enhanced compensation because of the settlement in Lok Adalat, the present applicants also need to be granted with the same benefit and

as such, their appeals need to be heard on merits.

4. Shri Phule, learned AGP though opposed for condoning the delay stating that the huge delay has not been sufficiently explained, did not dispute that some of the matters arising out of the same acquisition, are settled in Lok Adalat by the State Government and the amount of compensation is enhanced in those matters. The learned AGP alternatively submitted that the applicants shall not be made entitled for the interest of the period of delay in the event of their success in the appeals.

5. Learned Counsel Shri Sawant has already submitted that the applicants are ready to waive the interest for the period of delay.

6. After having considered the submissions advanced by the learned counsel appearing for the respective parties and more particularly having regard to the fact that some of the matters arising out of the same acquisition, are settled by the State Government in the Lok Adalat and the

amount of compensation is enhanced in those matters, I am inclined to allow these applications. Hence, the following order.

ORDER

i. The delay caused in filing the appeals is condoned. The Civil Applications for condonation of delay are disposed of.

ii. The appeals be registered in accordance with law. On registration of the appeals, issue notice to the respondents. Learned AGP Shri Phule waive notice for State. Service complete.

iii. It is clarified that as undertaken by the applicants, they shall not be entitled for the statutory interest of the period of delay in the event of their success in the appeals.

iv. Necessary undertaking be filed by the applicants within four weeks.

v. Copy of the undertaking as well

as copy of this order be placed with the papers of appeals.

vi. List the appeals for further consideration after three weeks.

(P . R . BORA)
JUDGE

bdv/