

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

937 CIVIL APPLICATION NO. 3473 OF 2018
IN FAST/3878/2018 WITH CA/3474/2018 IN FAST/3878/2018
WITH CA/3475/2018 IN FAST/3948/2018 WITH CA/3476/2018
IN FAST/3948/2018

THE EX. ENGINEER, MEDIUM PROJECT DIVISION, OSMANABAD
AND ORS

VERSUS

PANDURANG YOGIRAJ MANE

...

Advocate for Applicants : Mr. Rajale Gulab B.

Mr. SP Deshmukh, AGP for State;

Mr. Irpatgire A.N. & Mr. MB Kolpe, Advs. For R/sole. (in
respective matters)

CORAM : P.R. BORA, J.

DATED : 2nd November, 2018.

PER COURT:-

1. Heard Shri Rajale, learned counsel for acquiring body and learned counsel Shri Irpatgire and Shri Kolpe for the respective claimants in the appeals.

2. Delay of 940 days has occurred in filing these appeals by the acquiring body. Learned counsel for the acquiring body submitted that in making procedural compliances, the delay has occurred. The learned counsel submitted that the delay is unintentional and for bonafide reasons. It is contended that substantial grounds are raised in exception to the judgments and awards impugned in the present appeals. The learned counsel submitted

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that when the Special Land Acquisition Officer had offered compensation @ Rs. 175/- to Rs.200/- per Are, the Reference Court has enhanced the same to the tune of Rs.3,248/- per Are. The learned counsel submitted that the Reference Court has arbitrarily enhanced the amount of compensation. In the circumstances, he prayed for condoning the delay and extending an opportunity to the acquiring body to prosecute its appeals on merits.

3. Shri Irpatgire and Shri Kolpe, learned counsel appearing for the respective respondents claimants opposed for condoning the delay. The learned counsel submitted that the reasons, which are assigned for inordinate delay of 948 days, are insufficient to condone the delay. The learned counsel further submitted that the acquiring body has not deposited or till date has not paid single pai to the respondents claimants for their acquired lands. In the circumstances, the learned counsel prayed for rejecting the applications.

4. I have considered the submissions made by the learned counsel appearing for the respective parties. It appears that the delay has occasioned because of negligence on part of the officers

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concerned. However, it cannot be ignored that the applicant is State Government undertaking and as such, public money is involved. In view of the fact that the enhancement, as has been awarded by the Reference Court apparently appears to be more than fifteen times. There is prima facie substance in the contentions made by learned counsel appearing for the acquiring body. However, while condoning the delay, care also needs to be taken by giving directions to the acquiring body to deposit the entire amount of compensation. Even otherwise, the application for stay has also been filed by the acquiring body necessary orders may be passed in the said application. In view of the above, I am inclined to condone the delay caused in filing the appeals. Hence, following order, -

ORDER

- i. The delay caused in filing the appeals is condoned. The applications for condonation of delay are disposed of.
- ii. Appeals be registered in accordance with law. On registration of appeals, issue notices to the respondents claimants. Learned counsel waive service

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for respective respondents. Service complete.

5. Heard on civil application for stay. Issue notice on CA for stay. Learned counsel waive service for respective respondents. Execution of the Awards impugned in the present appeals shall stand stayed subject to deposit of entire amount under the said Awards along with interest accrued thereon by the acquiring body in this court within a period of ten weeks from the date of this order. CA for stay disposed of.

6. Call R and P. List the appeals for further consideration.

(P.R. BORA)
JUDGE

bdv