

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

**948 CIVIL APPLICATION NO.10052 OF 2016
IN FAST/5508/2016 WITH CA/10049/2016
IN FAST/5508/2016 WITH CA/10051/2016
IN FAST/5508/2016**

G.M.I.D.C. THR ITS THE EXECUTIVE
ENGINEER, MINOR IRRIGATION DIVISION,
JALNA AND ORS

..Applicants

VERSUS

SAKHARAM HARIBHAU ANPAT

..Respondent

...

Advocate for Applicant No.1 : Shri P.S. Shinde;
AGP for Applicants - State : Shri P.G. Borade;
Advocate for Respondent : Smt K.P. Mutatkar (Kale).

...

CORAM : P.R. BORA, J.

Dated: September 25, 2018

PER COURT :

1. The learned Counsel for the applicant- Acquiring Body submitted that, no notice was served upon the Acquiring Body in the matter before the reference Court and as such, the Acquiring Body could not defend the said reference application. The learned Counsel further submitted that, only after the execution proceedings were filed that the applicant came to know about passing of the Award in the reference application. The learned Counsel submitted that, substantial grounds are raised in exception to the award impugned in the present appeal. The learned Counsel, therefore, prayed for granting

leave to appeal as well as to condone the delay, which has occasioned in filing the First Appeal.

2. The learned Counsel for the original claimant has opposed for condoning the delay stating that, the huge delay of 2480 days has not been appropriately explained.

3. After having considered the submissions and more particularly having considered the fact that no notice was served upon the Acquiring Body, it appears to me that, the opportunity needs to be given to the Acquiring Body to prosecute its appeal on merits. Ultimately, the matter relates to public money and in the circumstances, the entire evidence will have to be rescrutinized. I am, therefore, inclined to pass the following order.

ORDER

- (i) Leave to appeal is granted.
- (ii) Delay caused in filing the appeal is condoned.
- (iii) Appeal be registered in accordance with law.

(iv) Civil Application Nos.10052 of 2016 & 10049 of 2016 stand disposed of.

(v) On registration of the appeal, issue notice to the respondent. Learned Counsel Smt Mutatkar waives service of notice for the respondent - original claimant. Service complete.

(vi) List the First Appeal for further consideration after four weeks.

(PR. BORA, J.)