

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

38 CIVIL APPLICATION NO.4763 OF 2018  
IN FAST/5588/2018 WITH CA/4764/2018 IN FAST/5588/2018

THE EX. ENGINEER, MINOR IRRIGATION DIVISION, LATUR AND  
ANR

VERSUS

SOPAN GUNDAPPA TAKBHIDE (DIED) THR LRS LAXMIBAI (DIED)  
THR LRS PANDIT AND ORS

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Advocate for Applicants : Mr. Dhongade Suresh D.

Mr. BM Dhanure, Adv. For Resp.No.2;

Mr. GN Kulkarni, Adv. For Resp.No.7.

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**CORAM : P.R. BORA, J.**

**DATED : 15<sup>th</sup> OCTOBER, 2018.**

**PER COURT:-**

1. Heard learned counsel for applicant. Delay of 1339 days has occurred in filing the present appeal by the acquiring body. Learned Counsel submits that the applicant is the State Government Undertaking and certain procedure has to be followed in preferring the appeal by the acquiring body. The learned counsel further submits that in securing sanction from the higher authorities and thereafter in procuring the amount of court fee, time was consumed and that is the reason that the appeal could not be filed within the stipulated period of limitation. The learned counsel further submitted that substantial grounds are raised in exception to the impugned judgment.

(2)

The learned counsel submitted that when the Special Land Acquisition officer had offered the compensation @ Rs.47,000/- per hectare, the Reference Court has arbitrarily enhanced it to Rs. 1,84,640/- per acre. The learned counsel submitted that in such circumstances, opportunity needs to be given to the acquiring body to prosecute its appeal on merits.

2. The learned counsel for the respondent original claimants has opposed for condoning the delay stating that the reasons as are assigned are insufficient to condone the huge delay. The learned counsel further submitted that the acquiring body has not deposited a single paise towards the amount of compensation till this date despite the order passed by the Court directing the acquiring body to deposit the entire amount of compensation while granting stay in favour of the acquiring body.

3. Shri Dhongade learned counsel for the acquiring body submitted that the amount will be deposited within next two weeks.

4. After having considered the submissions, it appears to me that the reasons which are

(3)

assigned in the application cannot be outrightly rejected. Though there is reason to believe that the delay may be caused because of negligence on part of the concerned officers, in view of the fact that ultimately public money is involved and having considered the fact that the compensation as awarded by the Reference Court is many times more than the amount that was offered by the Special Land Acquisition Officer, I deem it appropriate to condone the delay. Hence, the following order, -

ORDER

i. The delay caused in filing the appeal is condoned. The CA for condonation of delay is disposed of. The appeal be registered in accordance with law.

ii. On registration of the appeal, issue notice to the respondents. Learned counsel waive service for respective respondents. Service complete.

5. List the matter after two weeks.

**(P.R. BORA)**  
**JUDGE**

bdv