

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

927 CIVIL APPLICATION NO.5331 OF 2018
IN FAST/7554/2018
WITH
CA/5333/2018 IN FAST/7709/2018

HARISCHANDRA BHIMRAO GUTTE AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...

Advocate for Applicants : Mr. Kendre N.D.
Mr. AM Phule, AGP for Respondents:1 & 2.

CORAM : P.R.BORA, J.

DATE : 29th August, 2018.

PER COURT :

1. Heard Shri Kendre, learned Counsel appearing for applicants and learned AGP Shri Phule, appearing for Respondent-State.

. Respondent No.3 though is duly served, no one has entered appearance on his behalf.

2. Delay of 1342 days has occurred in filing the present appeal/s by the applicant/s.

3. Learned Counsel for the applicants submitted that financial crunch was the main reason that the applicants could not prefer the appeals seeking enhancement in the amount of

compensation before this Court. The learned counsel submitted that the applicants are ready to file an undertaking that they will not claim any interest on statutory benefit of the period of delay in the event of their success in the appeals. The learned and the Court on its own is not imposing any counsel further submitted that on such condition, the applicants may be given an opportunity to prosecute their appeals on merits. The learned counsel relied upon the judgment of the Hon'ble Apex Court in the case of K.Subbarayudu and Ors. Vs. Special Deputy Collector (Land Acquisition) - (2017) 12 SCC 840.

4. Learned AGP has resisted the request so made. He submitted that financial crunch cannot be a ground for condoning the delay. The learned AGP further submitted that in absence of any cogent and sufficient reasons, the huge delay of 1342 days cannot be condoned. The learned AGP relied upon the judgment of the Hon'ble Apex Court in the case of Basavraj and Anr. Vs. Special Land Acquisition officer - (2013) 14 SCC 81.

5. I have carefully considered the submissions advanced by the learned counsel appearing for the respective parties. It is true that financial crunch may not be the ground for condoning the delay. However, as has been observed by the Hon'ble Apex Court in the case of K.Subbarudu (cited supra), the said reason can also not be outrightly rejected in every case. Further, the applicants themselves have undertaken not to claim any interest or statutory benefit of the period of delay in the event of their success in the appeals. In the circumstances, I am inclined to allow the present application. Hence, the following order, -

ORDER

- i. The delay caused in filing the appeals is condoned.
- ii. Appeals be registered in accordance with law. After registration of the appeals, issue notices to the respondents.
- iii. Learned counsel and learned AGP waive service for respective respondents.

iv. It is clarified that as undertaken by the applicants, they shall not be entitled for any statutory benefit or interest for the period of delay in the event of their success in the appeals on the amount of enhanced compensation.

v. The applicants to furnish the undertaking within four weeks.

vi. The Civil Applications stand disposed of. Copy of the present order be placed in the papers of Appeal.

(P.R.BORA)
JUDGE

bdv/