

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

932 CIVIL APPLICATION NO.8027 OF 2018
IN FAST/9599/2018
WITH
CIVIL APPLICATION NO.8028 OF 2018
IN FAST/9967/2018

CHANDRAKALABAI GOVIND GUTTE
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...

Advocate for Applicants : Mr. Kendre N.D.
Mrs. SS Raut, AGP for Respondents:.

CORAM : P.R.BORA, J.

DATE : 29th August, 2018.

PER COURT :

1. Heard learned Counsel appearing for applicants and learned AGP appearing for Respondent-State.

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

2. Delay of 1895 days has occurred in filing the present appeal/s by the applicant/s.

3. Learned Counsel for the applicant 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 applicant is ready to file an undertaking that she will not claim any interest or statutory benefit of the period of delay in the event of her success in the appeal. The learned counsel further submitted that on such condition, the applicant may be given an opportunity to prosecute her appeal 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. The learned AGP 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 1895 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 applicant herself, has undertaken not to claim any interest or statutory benefit of the period of delay in the event of her success in the appeal. In the circumstances, I am inclined to allow the present application. Hence, the following order, -

ORDER

- i. The delay caused in filing the appeal is condoned.
- ii. Appeal be registered in accordance with law. After registration of the appeal, issue notices to the respondents.
- iii. Learned AGP waives service for respondents Nos.1 & 2.
- iv. It is clarified that as undertaken by

the applicant, she shall not be entitled for any statutory benefit or interest for the period of delay in the event of her success in the appeal on the amount of enhanced compensation.

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

vi. The Civil Application for condonation of delay stands disposed of. Copy of the present order be kept in the papers of Appeal.

(P.R.BORA)
JUDGE

bdv/