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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 5552 OF 2018
WITH
CIVIL REVISION APPLICATION STAMP NO.10219 OF 2018

Dattatraya Gopal Thele
Age - Major, Occ - Agriculture
R/o Sawargaon, Taluka - Tuljapur
District - Osmanabadd

APPLICANT

VERSUS

1. The State of Maharashtra
Through Collector, Osmanabad
2. The Executive Engineer,
Minor Irrigation Zilla Parishad,
Osmanabad, District - Osmanabad
3. The Special Land Acquisition Officer,
Manjara Project, Osmanabad
District - Osmanabad

RESPONDENTS

WITH

CIVIL APPLICATION NO. 5553 OF 2018
WITH
CIVIL REVISION APPLICATION STAMP NO.10217 OF 2018

1. Manohar Niverti Thele
Age - Major, Occ-Agriculture
R/o Sawargaon, Taluka - Tuljapur
District - Osmanabad
2. Baburao Niverti Thele
Age - 65 years, Occ - Agriculture
R/o Sawargaon, Taluka - Tuljapur
District - Osmanabad

APPLICANTS

VERSUS

1. The State of Maharashtra
Through Collector, Osmanabad

RESPONDENTS

2. The Executive Engineer,
Minor Irrigation Zilla Parishad,
Osmanabad, District - Osmanabad
3. The Special Land Acquisition Officer,
Manjara Project, Osmanabad
District - Osmanabad

WITH

CIVIL APPLICATION NO. 5555 OF 2018

WITH

CIVIL REVISION APPLICATION STAMP NO.10209 OF 2018

Parwatibai Revan Choughule
Age - Major, Occ - Agriculture
R/o Sawargaon, Taluka - Tuljapur
District - Osmanabad

APPLICANT

VERSUS

1. The State of Maharashtra
Through Collector, Osmanabad
2. The Executive Engineer,
Minor Irrigation Zilla Parishad,
Osmanabad, District - Osmanabad
3. The Special Land Acquisition Officer,
Manjara Project, Osmanabad
District - Osmanabad

RESPONDENTS

WITH

CIVIL APPLICATION NO. 5557 OF 2018

WITH

CIVIL REVISION APPLICATION STAMP NO.10212 OF 2018

1. Ramesh Mallikarjun Choughule
Age - Major, Occ - Agriculture
R/o Sawargaon, Taluka - Tuljapur
District - Osmanabad
2. Subhash Mallikarjun Chougule
(Deceased, Through Lrs)

APPLICANTS

- A. Durgadevi Subhash Chougule
Age - 65 years, Occ - Agriculture
R/o Sawargaon, Taluka - Tuljapur
District - Osmanabad
- B. Varsharani Subhash Chougule
Age - 42 years, Occ - Agriculture
R/o Sawargaon, Taluka - Tuljapur
District - Osmanabad
- C. Dhananjay Subhash Chougule
Age - 37 years, Occ - Agriculture
R/o Sawargaon, Taluka - Tuljapur
District - Osmanabad
- D. Meghraj Subhash Chougule
Age - 37 years, Occ - Agriculture
R/o Sawargaon, Taluka - Tuljapur
District - Osmanabad
- E. Someshwar Subhash Chougule
Age - 35 years, Occ - Agriculture
R/o Sawargaon, Taluka - Tuljapur
District - Osmanabad

VERSUS

- | | |
|---|-------------|
| <ul style="list-style-type: none"> 1. The State of Maharashtra
Through Collector, Osmanabad 2. The Executive Engineer,
Minor Irrigation Zilla Parishad,
Osmanabad, District - Osmanabad 3. The Special Land Acquisition Officer,
Manjara Project, Osmanabad
District - Osmanabad | RESPONDENTS |
|---|-------------|

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Mr. A. A. Khande h/f Mr. L. C. Patil, Advocate for the applicant
Mr. S. N. Kendre, AGP for respondent - State

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 7th SEPTEMBER, 2018

ORAL JUDGMENT :

1. Mr. Khande, learned advocate holding for Mr. L. C. Patil, submits that ostensibly applications have been moved belatedly, however, it may have to be taken into account that after the land acquisition award had been passed by the collector and the amount had been received under protest, indeed, applicants had preferred land acquisition references and had lodged the same with the Land Acquisition Officer. However, while the land acquisition references were expected to be forwarded to reference court, the matter got dillydallied for such aspects involved in the matter which were not within the domain of the land acquisition officer. Eventually, land acquisition officer purported to have made certain communications to the applicants, however, they were given to understand that necessary rectification and corrections shall take place before the reference court and it would be the province of the civil court and not of the land acquisition officer. Under the circumstances, it was expected that references would be sent to civil court, however, while the progress with respect to the same was sought around 2015, it transpired that instead of transmitting references lodged by the applicants, the same were purportedly rejected somewhere around August, 2011.

2. Learned advocate submits that legal advice in this respect had been sought, however, no specific legal advice had come their way and ultimately, since the things were becoming unbearable, the applications have been moved. It is being submitted that the applicants had no wherewithal to cope up with the litigation and they were engaged in eking out their existence.

3. Learned advocate, further refers to common decision rendered by learned single judge of this court in a batch of civil applications along with civil revision applications, disposed of under judgment and order dated 10th January, 2018. According to learned advocate, position of present applicants is more dire than that of the applicants in those matters. He, therefore, seeks a lenient treatment to the applications as have been meted out to the applicants in that batch of civil applications and civil revision applications decided on 10th January, 2018.

4. Learned AGP on the other hand, however, submits that while the last of the communication shows that it had been made in 2011, at least for about three years there is no explanation since it is being contended that in 2015, some movement had been made. He further submits that there is no further explanation coming forth for the period thereafter.

5. Although such a resistance is being put forth by learned AGP, it may have to be adverted to a decision of learned single judge of this court in the case of “*Laxmibai Ganesh Parke and Others V/s State of Maharashtra and Others*” reported in 2011 (5) Bom.C.R. 347, wherein it has been observed that special land acquisition officers and sub divisional officers are not empowered to reject applications filed by claimants, may be for non removal of deficiencies viz., payment of court fee, etc. and it is obligatory for the authority to forward applications of claimants to reference court.

6. Additionally, one may also have to take into account order dated 6th August, 2018 passed by learned single judge of this court in civil application No. 5558 of 2018 in Civil Revision Application Stamp No. 11067 of 2018, wherein a delay of similar magnitude as involved in present matters has been condoned, taking into account that claimants were agriculturists and have lost their lands on acquisition, they had been running from pillar to post eking out their existence and this court is the last hope for them.

7. Over and above this, learned advocate for the applicants – claimants, on instructions, makes a statement that the applicants would not claim interest for the period of delay.

8. Learned advocate has further submitted that he delay is neither intentional nor deliberate and much less by deliberately causing delay they are unlikely to be benefited.

9. As such, conjoint reading of order dated 6th August, 2018 in Civil Application No. 5558 of 2018 in Civil Revision Application Stamp No. 11067 of 2018 and the reported decisions relied on and as have been referred to in paragraph No. 3 of said order and order dated 10th January, 2018 in batch of matters referred to *supra*, it appears to be expedient to indulge into request being made in the present set of matters by condoning delay and directing special land acquisition officer / sub divisional officer to send references filed by the applicants to reference court for its onward adjudication in accordance with law and procedure. Deficiencies, if any, may be met with by the applicants as early as possible, before the reference court. As such, delay stands condoned. Civil applications stand allowed in terms of prayer clause "B" and are disposed of, subject to payment of costs of Rs.500/- per application. Amount of costs be deposited within a period of four weeks from the date of receipt of writ of this order by reference court. Impugned orders dated 30th August, 2010 passed by Land Acquisition Officer, Manjara Project, Osmanabad stand set aside. Civil Revision Applications are allowed in terms

of prayer clause “B” and are disposed of. Reference court, in case of granting enhancement in the land acquisition compensation to take into account statement made before this court that interest for the period of delay would not be claimed by the applicants. Applicants to file undertaking before the reference court to the effect that they would not claim interest for the period of delay.

Dinesh
Ramrao
Pawar

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signed by
Dinesh
Ramrao
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Date:
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[SUNIL P. DESHMUKH, J.]

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