

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

**CIVIL APPLICATION NO.5902 OF 2016
IN
FIRST APPEAL (ST) NO.12048 OF 2016**

The Executive Engineer
Minor Irrigation Division,
Osmanabad

.. Applicant

Versus

Tukaram Maroti Waghmare
Dead Thr. LRs
Narayan Tukaram Waghmare & Ors.

.. Respondents

....

Shri P.S. Patil, Advocate for Applicant;
Shri P.P. More, Advocate h/f. Shri S.P. More,
Advocate for Respondents No.1, 3A to 3D, 4 to 8;
Respondents No.9 & 10 – Served.

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WITH

**CIVIL APPLICATION NO.12628 OF 2018 IN FAST/12048/2016
CIVIL APPLICATION NO.5904 OF 2016 IN FAST/11876/2016
CIVIL APPLICATION NO.12630 OF 2018 IN FAST/11876/2016
CIVIL APPLICATION NO.5908 OF 2016 IN FAST/11880/2016
CIVIL APPLICATION NO.5906 OF 2016 IN FAST/12051/2016**

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CORAM : P.R. BORA, J.
Dated: October 11, 2018

PER COURT :

1. Heard Shri P.S. Patil the learned Counsel appearing for the Acquiring Body.
2. The Acquiring Body has preferred these four appeals

challenging the Judgments and Awards passed in the respective Land Reference Applications. The common Judgment is passed in L.A.R. Nos.378/1999 and 379/1999, whereas another common Judgment is passed in L.A.R. Nos.372/1999 and 253/1999. Since some delay has occurred in filing the appeals by the Acquiring Body, the Acquiring Body has also filed Civil Applications seeking condonation of delay, which has occasioned in filing these appeals. The delay is ranging between 878 to 1169 days. Shri Patil the learned Counsel appearing for the Acquiring Body submitted that, in making procedural compliances, the delay has been caused. The learned Counsel submitted that, the delay is unintentional and without any *malafides*. The learned Counsel further submitted that, substantial grounds are raised in exception to the impugned Judgment and Award and as such, opportunity needs to be given to the Acquiring Body to prosecute the appeals on merits.

3. Shri P.P. More has appeared in all these matters for the original claimants. The learned Counsel has strongly opposed for condoning the delay. The learned Counsel, in fact,

has opposed for entertaining these applications itself. The learned Counsel pointed out that, the appeals which are filed against the common Judgment and Award passed in LAR Nos.372/1999 and 253/1999 are already compromised by the Acquiring Body before the Executing Court in Lok Adalat. The learned Counsel submitted that, in such circumstances, in fact the Acquiring Body was not supposed to proceed with these matters. Learned Counsel further submitted that, though another Judgment is passed in LAR Nos.378/1999 and 379/1999 since the lands are from the same village acquired for the same purpose and by the same notification, the same criteria would apply. The learned Counsel submitted that, once the Acquiring Body has acquiesced the Awards passed in companion matters, it is not now open for the Acquiring Body to file appeals in the similar matters. The learned Counsel Shri More has placed on record the compromise pursis filed by the Decree Holder i.e. original claimant and the Judgment Debtor i.e. present appellant in Spl. Darkhast No.533/2013 arising out of the LAR No.253/1999 and Spl. Darkahst No.480/2013 arising out of the LAR No.372/99. The learned Counsel has also placed

on record the copy of the order passed by the Panel of the Lok Adalat indicating the settlement arrived at between the Acquiring Body and claimants.

4. Learned Counsel for the Acquiring Body has not disputed the correctness of the facts as are stated by Shri More the learned Counsel appearing for the claimants. In the circumstances, it appears to me that, the Acquiring Body does not have any case for proceeding further in these matters. I am convinced with the submissions made by Shri More that once the Acquiring Body has entered into a compromise in respect of the companion petitions, the Acquiring Body has lost its right to give a challenge to the similar Judgment passed in the companion Land Acquisition References. Even otherwise, huge delay of 1169 days which has occurred in filing the appeal, has also not been appropriately explained. Thus, on both the counts, I do not see any case for Acquiring Body, more particularly, in view of the fact that, two matters are compromised by the Acquiring Body before the Lok Adalat after filing of the appeals in this Court. All these matters therefore, deserve to be disposed of and cannot be entertained. In the circumstances, the

following order is passed.

ORDER

(i) First Appeal (St.) Nos.11880 of 2016 & 12051 of 2016, both stand disposed of in view of the fact that, both the matters are settled between the parties in the execution proceedings before the Lok Adalat.

(ii) Since the delay has not been appropriately explained and having regard to the fact that, in companion matters Acquiring Body has acquiesced the Award, the present Civil Applications also deserve to be rejected and are accordingly rejected. Consequently, the appeals on stamp number also stand dismissed.

(iii) It would be open for the claimants to withdraw the amount of compensation deposited by the Acquiring Body in the aforesaid matters in this Court, if already not withdrawn in accordance with the order passed by the reference Court.

(iv) The amount of compensation deposited by the

Acquiring Body in this Court be transmitted to the executing Court, which may consider the applications for withdrawal on their own merits.

(v) Pending Civil Applications, if any, stands disposed of.

(P.R. BORA, J.)