

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

**921 CIVIL APPLICATION NO.5921 OF 2016
IN FAST/12090/2016**

WITH

**CA/5933/2016 IN FAST/12063/2016
CA/5948/2016 IN FAST/12075/2016
CA/5950/2016 IN FAST/12078/2016
CA/5953/2016 IN FAST/12081/2016
CA/5955/2016 IN FAST/12084/2016
CA/5958/2016 IN FAST/12087/2016**

THE EX. ENGINEER, MINOR
IRRIGATION DIV. OSMANABAD

..Applicant

VERSUS

MAHADEO MAROTI GATE & ORS

..Respondents

...

Shri P.S. Patil, Advocate for the applicant;
Shri L.C. Patil, Advocate for Respondent No.1;
Shri A.M. Phule, AGP for Respondents – State.

...

CORAM : P.R. BORA, J.
Dated: October 05, 2018

PER COURT :

1. Heard the learned Counsel appearing for the respective parties.

2. Delay ranging between 1032 to 1036 days has occurred in filing these appeals by the Acquiring Body. The learned Counsel submitted that, in making procedural compliances, the delay has occurred and that is the only reason

that the appeals could not be filed within the stipulated period of limitation. The learned Counsel submitted that, substantial grounds are raised in exception to the impugned Award. The learned Counsel contended that, when SLAO had offered the compensation at the rate of Rs.500/- to Rs.750/- per *Are*, the Reference Court has enhanced it to Rs.3,000/- per *Are*. The learned Counsel submitted that, the enhancement is on higher side and without any cogent evidence therefor. In the circumstances, it is prayed that, an opportunity needs to be given to the Acquiring Body to agitate its appeals on merits.

3. Shri L.C. Patil the learned Counsel appearing for the claimants has opposed for condoning the delay stating that, the reasons as are assigned are insufficient to condone the delay.

4. I have given due consideration to the submissions made by the learned Counsel appearing for the respective parties. Though it is true that the delay which has been caused is of a longer period, however the reasons as are assigned cannot be outrightly rejected. Apparently, it appears that, the

concerned Officers were not diligent in dealing with the present matters, it cannot be forgotten that, ultimately the public money is involved in all these matters. Having regard to the fact that, the enhancement granted by the Reference Court is more than six times, the entire evidence will have to be rescrutinized. I am, therefore, inclined to allow these applications. Hence, the following order.

ORDER

(i) The delay caused in filing the appeals is condoned. Appeals be registered in accordance with law. Civil Applications for condonation of delay stand disposed of.

(ii) On registration of the appeals, issue notice to the respondents. Shri L.C. Patil waives service of notice for the claimants. AGP Shri Phule waives service of notice for the respondents – State. Service complete.

(iii) List all these appeals for further consideration after four weeks.

(iv) Call Record & Proceedings, if already not called.

(PR. BORA, J.)