

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

952 CIVIL APPLICATION NO.7188 OF 2018
IN FAST/12063/2018
WITH CA/7190/2018 IN FAST/12506/2018
WITH CA/7192/2018 IN FAST/12499/2018
WITH CA/7194/2018 IN FAST/12502/2018
WITH CA/7196/2018 IN FAST/12512/2018

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THE EXECUTIVE ENGINEER, MINOR IRRIGATION
DIVISION & OTHERS

VERSUS

MANIK RAMA SURWASE
(DIED) THROUGH L.RS.PANCHPHUL AND OTHERS

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Shri Shyam C. Arora, Advocate for the
applicants.

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CORAM : P.R.BORA, J.

DATE : 03.10.2018

ORDER:

1. Heard the learned counsel appearing for the applicants. Though the respondents i.e. original claimants are duly served, none of them has entered appearance in the matter.

2. The delay of 1654 days has occurred in filing the present First Appeals by the acquiring body. The learned counsel submitted that in making procedural compliances time was consumed and that is the reason the

Appeals could not be filed within stipulated period of limitation. The learned counsel submitted that substantial grounds are raised in exception to the awards impugned in the present Appeals. The learned counsel further submitted that for the lands involved in the present matters when the Special Land Acquisition Officer had offered the compensation at the rate of Rs.180/- per Are, the Reference Court has enhanced it to Rs.800/- per Are for dry land and Rs.1190/- per Are for seasonally irrigated land. The learned counsel submitted that the enhanced compensation that has been given by the Reference Court is apparently on higher side. The learned counsel, in the circumstances, prayed for condoning the delay so that the Appeals filed by the acquiring body can be heard on its own merits.

3. Having considered the submissions so made by the learned counsel appearing for the

applicants, it appears to me that though the delay admittedly is of more than 4 years, the reasons as are assigned deserves to be considered. Moreover, the submissions so made by the learned counsel that the enhanced compensation as has been given by the Reference Court apparently appears to be on higher side. It was also contended by the learned counsel that relying on the sale instances of small piece of land admeasuring 20 Are land, the market rate has been determined by the Reference Court. In the circumstances, having regard to the fact that ultimately public money is involved in the present matter, I am inclined to allow the applications. Moreover, the interest awarded by the Reference Court under Section 28 of the Land Acquisition Act from the date of issuance of the Notification under Section 4, is also apparently unsustainable. In view of above, following order is passed:

ORDER

1. The applications are allowed.
2. The delay caused in filing the present Appeals is condoned. The Civil Applications stand disposed of.
3. The Appeals be registered in accordance with law.

[P . R . BORA]
JUDGE

DDC