

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

**961 CIVIL APPLICATION NO. 14524 OF 2016
IN FAST/20878/2016 WITH CA/14523/2016 IN
FAST/20883/2016**

**SUDHAKAR JAGANNATH PURI
VERSUS
THE STATE OF MAHARASHTRA AND ORS**

...

Advocate for Applicant : Ms. A.S. Jadhav h/f Mr
P.R. Katneshwarkar

AGP for Respondents/State : Ms. S.S. Raut

...

CORAM : P.R. BORA, J.

DATED : 21st SEPTEMBER, 2018.

PER COURT:-

. Heard Smt Jadhav holding for Mr. Katneshwarkar, the learned counsel for the appellant-applicant.

2. Though respondent no.3 i.e. acquiring body is duly served, no one has entered appearance on its behalf. Smt. Raut, the learned AGP is representing respondent nos. 1 and 2.

3. The learned counsel for the appellant-applicant tendered across the bar the undertaking of the appellants-applicants in the present appeals to the effect that they shall not claim any statutory benefit or interest for the period of

(2)

delay in the event of their success in the present appeals. The undertakings are taken on record and are marked as Exhibit 'X' and Exhibit 'Y' and are to be kept in the respective appeals/applications. The learned counsel further submitted that in the companion matters arising out of the acquisition of the lands for the purpose of Lower Dudhana Project, this Court in the group of First Appeal No. 2740 of 2016 in connected appeals has enhanced the amount of compensation. The learned counsel has placed on record the copy of the said judgment.

4. The learned counsel submitted that these two appellants were left out. The learned counsel submitted the in view of the fact that all other similarly placed agriculturist have received the compensation at the enhanced rate, it would be wholly unjust if, these two appellants-applicants are deprived of the said benefit. The learned counsel, therefore, prayed for condoning the delay so that the appeals filed by the applicants can be prosecuted on merits.

5. Smt. Raut, the learned AGP strongly opposed for condoning the delay stating that the

huge delay of 2792 days has not been appropriately explained and she, therefore, prayed for rejecting the applications.

6. After having considered the submissions made by the learned counsel appearing for the parties and more particularly considering the fact that in some other matters the similarly placed applicants-petitioners have been granted enhancement in the amount of compensation by this Court and taking into account the further aspect that the present appellants have waived the right to claim interest for the period of delay, I am inclined to allow the present applications. Hence the following order:

ORDER

- i) Applications are allowed.
- ii) The delay of 2792 days caused in filing the appeals is condoned. The appeals be registered in accordance with law.
- iii) It is clarified that as undertaken by the applicants, they shall not be entitled for the interest for the period of delay in case of their success in the appeals

(4)

on the enhanced amount of compensation.

iv) Copies of the undertaking submitted by the applicants as well as copy of the present order shall be kept alongwith the papers of the appeals.

v) Both Civil Applications stand disposed of.

vi) On registration of the appeals, issue notice to the respondents, returnable on 19.10.2018. Smt. Raut, the learned AGP waives notice for respondent nos. 1 and 2.

(P.R. BORA, J.)

Mujaheed//