

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

**902 CIVIL APPLICATION NO.2029 OF 2017 IN
FIRST APPEAL STAMP NO.32141 OF 2016
WITH
FIRST APPEAL STAMP NO.32141 OF 2016**

- . Madhukar s/o.Panditrao Late
Age: 35 years, Occu.: Agriculture,
R/o.Kedar Wakadi, Tq.Mantha,
Dist.Jalna. ..Appellant

VERSUS

- 1) The State of Maharashtra
Through the Collector, Jalna.
- 2) The Special Land Acquisition Officer,
Jalna.
- 3) The Executive Engineer,
Lower Dudhana Project, Sailu. ..Respondents

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Advocate for Applicants/Appellants : Mr.Kailas B.Jadhav
AGP for Respondents/State : Mr.B.V.Virde,
Mr.S.P.Deshmukh, Mr.A.M.Phule

Advocate for Respondent No.3 (In FAST/32141/2016,
CA/2029/2017, FAST/25709/2017 and CA/10735/2017):
Mr.M.C.Swami

Advocate for Respondent No.3 ((In FAST/25718/2017 &
CA/10734/2017, FAST/25187/2017, CA/12582/2017 and
FA/2259/2012) : Mrs.Sunita D.Shelke

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WITH
903 CIVIL APPLICATION NO. 10734 OF 2017
IN FAST/25718/2017
WITH
FIRST APPEAL STAMP NO.25718 OF 2017
WITH
CIVIL APPLICATION NO. 10735 OF 2017
IN FAST/25709/2017
WITH
FIRST APPEAL STAMP NO.25709 OF 2017

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WITH
904 CIVIL APPLICATION NO. 12582 OF 2017
IN FAST/25187/2017
WITH
FIRST APPEAL STAMP NO.25187 OF 2017
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WITH
926 FIRST APPEAL NO. 2259 OF 2012
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CORAM : M.S.SONAK, J.
DATE : 15th FEBRUARY, 2018

ORAL JUDGMENT:-

1) Heard the learned counsel for the parties. With their request and consent, these matters are taken up, since, it is represented that these matters stand covered by the orders made in connected matters arising out of the acquisition proceedings under the same Notification

and for the same Project.

2) Except, First Appeal No.2259 of 2012 in which the delay has already been condoned and the appeal is already admitted, in rest of the matters, there are applications for condonation of delay, since, the appeals came to be instituted after delay of 2885, 3175, 3172 and 3169 days after expiry of the period of limitation.

3) In all these civil applications, Mr.Kailas B.Jadhav the learned counsel for the applicants/appellants on the basis of instructions from the applicants/appellants makes a statement that the applicants/appellants undertake not to claim any statutory benefits and interest for the delayed period, should the appeals be allowed and the compensation amount enhanced. He points out that on the basis of similar statement, this Court by order dated 4.8.2017 in Civil Application No.11899 of 2016 in First Appeal Stamp No.22434 of 2016 and connected

matters concerning the very same acquisition has already condoned the delay of 2827, 2896, 2885 and 2916 days respectively. Since there is no dispute at the bar that the facts and circumstances in the connected matters wherein no manner substantial different from the facts and circumstances pleaded in the present matters, the delay in institution of the appeals is condoned with the clarification that the applicants/appellants have undertaken that they will not claim any interest or statutory benefits for the delayed period, should the appeal be allowed and the compensation amounts enhanced. The civil applications for condonation of delay are accordingly disposed of.

4) Upon the condonation of delay, the learned counsel for the parties submits that the main appeals including the First Appeal No.2259 of 2012 (admitted matter), which is placed on the board, may be disposed of since these appeals stand covered by the Judgment and award dated

17.7.2017 made by this Court in First Appeal No.4083 of 2016 and connected matters concerning the very same acquisition under the very same Notification and for the very same purpose.

5) This Court in its Judgment and order dated 17.7.2017 has held that the compensation is required to be enhanced to Rs.1,500/- per Are in respect of Jirayat land, to Rs.2,250/- per Are and in respect of seasonally irrigated land, and to Rs.3,000/- in respect of Bagayat land.

6) In First Appeal No.2259 of 2012, the learned counsel for the appellant submits that acquired land was Jirayat land. Accordingly, this appeal is disposed of by enhancing the compensation in respect of such Jirayat land to Rs.1,500/- per Are. The appellant will be entitled to proportionate statutory benefits and interest on the enhanced amount. However, the appellant will not be entitled to proportionate statutory benefits and

interest in so far as the delayed period is concerned, since, in this case also the appeal came to be admitted after condonation of delay. The First Appeal No.2259 of 2012 is therefore, partly allowed to this extent.

7) In so far as rest of the appeals are concerned, learned counsel for the applicants/appellants submits that the acquired lands were semi-irrigated lands, therefore, the compensation in respect of such semi-irrigated lands is enhanced to Rs.2,250/- per Are. The applicants/appellants will be entitled to proportionate statutory benefits and interest on the enhanced amount. However, the applicants/appellants will not be entitled to proportionate statutory benefits and interest in so far as the delayed period is concerned in terms of the undertaking rendered at the stage of consideration of applications for condonation of delay. These appeals are also therefore partly allowed to the aforesaid extent.

8) The respondents are directed to recompute the compensation amount in terms of the present Judgment and order and deposit the same in this Court within a period of 12 weeks from today. Upon deposit, the applicants/appellants are granted liberty to withdraw the same unconditionally.

9) In case there is any dispute as regards calculations or computation, the applicants/appellants are at liberty to withdraw the deposited amount without prejudice and thereafter to institute execution proceedings for recovery of balance amount, if any.

10) These civil applications and appeals are disposed of in the aforesaid terms. There shall be no order as to costs.

[M.S.SONAK, J.]