

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

**956 CIVIL APPLICATION NO. 11514 OF 2018
IN FAST/26447/2018 WITH CA/11515/2018 IN
FAST/26447/2018 WITH CA/11516/2018 IN
FAST/26683/2018 WITH CA/11518/2018 IN
FAST/26683/2018 WITH CA/11519/2018 IN
FAST/26443/2018 WITH CA/11520/2018 IN
FAST/26443/2018**

**THE EX. ENGINEER, MINOR IRRIGATION DIVISION
LATUR THRG.M.I.D.C, AURANGABAD
VERSUS
GOVIND VENKATRAO GAJBHAR AND ORS**

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Advocate for Applicant : Mr. S.G. Bhalerao

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CORAM : P.R. BORA, J.

DATED : 21st SEPTEMBER, 2018.

PER COURT:-

1. Heard Shri S.G. Bhalerao, the learned counsel appearing for the applicant-acquiring body.

2. The present applications are filed seeking condonation of delay, which has occurred in filing the appeals by the applicant-acquiring body against the awards passed in the Land Acquisition References decided by the Civil Court at Udgir. Delay of 1864 days has occurred in filing the appeals by the acquiring body.

3. Shri Bhalerao, the learned counsel

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appearing for the acquiring body submitted that the applicant is a State Government undertaking and has to follow the procedure prescribed for filing the appeal and in complying the said procedural part, the delay has occurred. The learned counsel submitted that the delay is unintentional and for bonafide reasons. The learned counsel further submitted that substantial grounds are raised in exception to the awards impugned in the present appeals and as such the acquiring body needs to be given an opportunity to prosecute its appeals on merits.

4. The learned counsel pointed out that when the SLAO after having considered the overall circumstances had awarded the compensation at the rate of Rs. 912 per Are, the Reference Court has enhanced it about four times without there being any cogent evidence. In the circumstances, the learned counsel prayed for issuance of notice in these matters.

5. I have gone through the contents of the applications. There cannot be a dispute that in making certain compliances, some time may be

definitely required and the said period certainly would be liable to be condoned, however in the present matter, the delay occasioned is of the period more than five years. The acquiring body in the applications filed by it, has nowhere sufficiently explained, as to why for such a long period of five years was required for making the compliances. Even if its accepted that the consent is to be obtained from the higher authorities and legal opinions are to be obtained and then funds are to be procured for filing the appeals, even then the period which has been consumed is unreasonable for which there is no cogent and sufficient explanation. There is reason to believe that the officers concerned have not shown due diligence in dealing with the present matters.

6. Though, it is true that the Courts are to be liberal in the matters of condoning the delay and allowing the parties to prosecute their matters on merits, the period of delay always has a great concern and moreover, unless the delay is properly explained, even the delay of smaller period cannot be condoned.

7. In the instant matter as I have noted herein-above, the applicant-acquiring body has failed in making out any case for condoning the delay. Moreover, I have also perused the judgments, which are impugned in the present appeals and on perusal of the said judgments and scrutinizing the same on merits also, it is revealed that the Reference Court has not committed any error in determining the market value at the rate of Rs. 2,750 per Are. The Reference Court has relied upon the sale instances of the comparable lands. The material on record shows that neither the State Government nor the acquiring body has adduced any evidence before the Tribunal and the evidence which was adduced by the claimants, has been accepted by the Reference Court on its merits.

8. Perusal of the impugned judgment reveals that the Reference Court has relied upon the sale-deed on Exhibit-38 brought on record by the claimants. The land which was the subject matter of the sale-deed on Exhibit-38 was ad-measuring 81R situated at Village Pangaon and was sold by registered sale-deed on 19.03.1996 for the consideration of Rs. 1,95,000/- i.e. at the rate of

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Rs. 97,500/- per Acre. After having done the exercise of working out plus and minus factors as well as deduction for distance and disparity, the Reference Court has determined the market value of the subject lands at the rate of 1,10,000/- per acre on the date of notification under Section 4 of the Act. The Reference Court has also relied on the sale-deed at Exhibit-37 as well as Exhibit-36 on the basis of the said sale instances also the Reference Court has reached to the conclusion that the market value of the acquired lands was around Rs. 1,10,000/- per Acre at the relevant time. After having considered the evidence on record and its consideration by the Reference Court, it does not in any way appear to me that the Reference Court has determined the market value of the acquired lands on higher side or has given unreasonable hike in the amount of compensation.

9. It also needs to be considered that the State Government has now adopted a policy not to prosecute the appeals wherein, the Reference Court has awarded the compensation less than four times of the ready reckoner rates of the acquired lands prevailing on the date of issuance of Section 4

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notification. Considering the said criteria also the amount of compensation awarded by the Reference Court comes within the prescribed limits. In the above circumstances, not only on the point of limitation but even on merits, no case is made out by the applicant. I am, therefore, not inclined to allow the present applications. Hence the following order:

ORDER

- i) The applications are rejected.
- ii) Consequently the appeals on stamp numbers also stand dismissed.
- iii) Pending civil applications, if any, stand disposed of.

(P.R. BORA, J.)

Mujaheed//