

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

936 CIVIL APPLICATION NO.4840 OF 2017
IN FAST/27055/2016

WITH

CA/4841/2017 IN FAST/27055/2016 WITH CA/4842/2017 IN
FAST/27049/2016 WITH CA/4843/2017 IN FAST/27049/2016
WITH CA/4844/2017 IN FAST/27039/2016 WITH CA/4845/2017
IN FAST/27039/2016 WITH CA/4851/2017 IN FAST/22552/2016
WITH CA/4852/2017 IN FAST/22552/2016 WITH CA/4853/2017
IN FAST/27024/2016 WITH CA/4854/2017 IN FAST/27024/2016
WITH CA/4855/2017 IN FAST/26976/2016 WITH CA/4856/2017
IN FAST/26976/2016 WITH CA/4857/2017 IN FAST/27012/2016
WITH CA/4858/2017 IN FAST/27012/2016 WITH CA/4859/2017
IN FAST/27033/2016 WITH CA/4860/2017 IN FAST/27033/2016
WITH CA/4861/2017 IN FAST/27042/2016 WITH CA/4862/2017
IN FAST/27042/2016 WITH CA/4863/2017 IN FAST/27030/2016
WITH CA/4864/2017 IN FAST/27030/2016 WITH CA/4865/2017
IN FAST/26982/2016 WITH CA/4866/2017 IN FAST/26982/2016
WITH CA/4867/2017 IN FAST/27036/2016 WITH CA/4868/2017
IN FAST/27036/2016 WITH CA/4869/2017 IN FAST/27027/2016
WITH CA/4870/2017 IN FAST/27027/2016 WITH CA/4871/2017
IN FAST/27020/2016 WITH CA/4872/2017 IN FAST/27020/2016
WITH CA/4874/2017 IN FAST/26979/2016 WITH CA/4875/2017
IN FAST/27007/2016 WITH CA/4876/2017 IN FAST/27007/2016
WITH CA/4877/2017 IN FAST/27045/2016 WITH CA/4878/2017
IN FAST/27045/2016 WITH CA/4879/2017 IN FAST/26987/2016
WITH CA/4880/2017 IN FAST/26987/2016

THE EXECUTIVE ENGINEER, MINOR IRRIGATION, AMBAJOGAI
VERSUS

SHANTABAI RAMCHANDRA GHOLWE AND ORS

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Advocate for Applicant : Mr. Biradar R.D.
Mr. V M Chate and Shri Shrikant Kulkarni, advocates for
respondents – original claimants (in respective
appeals)

Mr. AM Phule, AGP For State.

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CORAM : P.R. BORA, J.

DATED : 4th OCTOBER, 2018.

PER COURT:-

1) All these matters are filed by the
acquiring body, challenging the judgment and awards
passed in the respective LARs. Delay of 657 days

has occurred in filing the appeals by the acquiring body.

. The respondents, i.e. original claimants in all these matters are served and in group of 13 matters, Advocate Shri Chate has appeared for the original claimants; whereas in group of other matters. Advocate Shri Shrikant Kulkarni has appeared for the original claimants. The State is represented by learned AGP.

2) Learned counsel Shri Biradar appearing for the acquiring body submitted that in making the procedural compliances, the delay has caused and that is the main reason that the appeals could not be filed within the stipulated period of limitation.

3) Learned counsel for the respondents has opposed for condoning the delay stating that the delay has not at all been properly explained. The learned counsel submitted that there are all vague statements made in the application and no particulars are provided as to on which date legal opinion was sought; on what date the application for certified copies was made; on what date court fees was made available etc. The learned counsel

(3)

in order to support his contention has relied upon the judgment of this court in the case of State of Maharashtra & ors. Vs. Vithu Kalya Govari and Ors. – 2008 (6) Mah.L.J.239.

4) I have given due consideration to the submissions made by learned counsel appearing for the acquiring body and learned counsel appearing for the claimants. On going through the contents of the application preferred by the acquiring body, the reasons as are assigned, cannot be out rightly rejected. It is true that the delay caused is of the period of more than 1 ½ years. However, negligence apparently appears on part of the concerned officers, who were supposed to take appropriate steps. During the course of the arguments, it was brought to my notice by learned counsel for the acquiring body that the compensation has been unreasonably enhanced by the Reference Court and the order of granting interest is also unsustainable. The learned counsel submitted that the Special Land Acquisition Officer had offered the compensation @ Rs.750/- to 950/- per Are. The Reference Court has enhanced it to Rs.3500/- by relying on some earlier judgment. .

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5) After having given due consideration to the submissions made by the learned counsel appearing for the acquiring body and the learned counsel appearing for the original claimants, it apparently appears that the Reference Court has enhanced the compensation almost five times than awarded by Special Land Acquisition Officer. It is also revealed that the interest under Section 34 of the Act has been awarded by the Reference Court from the date of issuance of section 4 notification. The order passed by the Reference Court to that extent also may not sustain.

6) As I mentioned earlier, though delay appears to be of a longer period, taking into account the fact that ultimately public money is involved, case is certainly made out by the acquiring body for re-scrutiny of the Judgment and Award impugned in the present appeals.

7) For the aforesaid reasons, in larger interest, I am inclined to condone the delay so that the acquiring body would get an opportunity to prosecute its appeals on merits. I am further inclined to take up these matters for final disposal immediately after their registration. In

(5)

the result, following order is passed, -

ORDER

- i. The delay caused in filing the appeals is condoned. All civil applications for condonation of delay stand allowed and disposed of;
- ii. The appeals be registered in accordance with law. On registration of the appeals, issue notice to the respondents.
- iii. Advocate Chate and Advocate Shrikant Kulkarni waive notice for the respondents - original claimants in respective matters. Learned AGP waives service for State. Service complete.
- iv. List the matters for final disposal at admission stage on **11th October, 2018.**

(P.R. BORA)
JUDGE

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