

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 12437 OF 2017 IN
CIVIL REVISION APPLICATION ST. NO. 31946 OF 2017

Kalyan Balbhim Thorabole
& others

Applicants

Versus

The State of Maharashtra
& others

Respondents

Mr. R.V. Naiknavare, advocate for applicants.
Mr. A.M. Phule, AGP for respondents 1 and 2.

WITH
CIVIL REVISION APPLICATION ST. NO. 31946 OF 2017

Kalyan Balbhim Thorabole
& others

Applicants

Versus

The State of Maharashtra
& others

Respondents

Mr. R.V. Naiknavare, advocate for applicants.
Mr. A.M. Phule, AGP for respondents 1 and 2.

WITH
CIVIL APPLICATION NO. 12439 OF 2017 IN
CIVIL REVISION APPLICATION ST. NO. 31965 OF 2017

Rukmoddin Chandpasha Masuldar

Applicant

Versus

The State of Maharashtra
& others

Respondents

Mr. R.V. Naiknavare, advocate for applicants.
Mr. A.M. Phule, AGP for respondents 1 and 2.

WITH
CIVIL REVISION APPLICATION ST. NO. 31965 OF 2017

Rukmoddin Chandpasha Masuldar Applicant

Versus

The State of Maharashtra
& others Respondents

Mr. R.V. Naiknavare, advocate for applicants.
Mr. A.M.Phule, AGP for respondents 1 and 2.

WITH
CIVIL APPLICATION NO.12440 OF 2017 IN
CIVIL REVISION APPLICATION ST. NO. 31958 OF 2017

Chandrabhar Dhondiba Godase
(Deceased through LRs) Applicants

Versus

The State of Maharashtra
& others Respondents

Mr. R.V. Naiknavare, advocate for applicants.
Mr. A.M. Phule, AGP for respondents 1 and 2.

WITH
CIVIL REVISION APPLICATION ST. NO. 31958 OF 2017

Chandrabhar Dhondiba Godase
(Deceased through LRs) Applicants

Versus

The State of Maharashtra
& others Respondents

Mr. R.V. Naiknavare, advocate for applicants.
Mr. A.M. Phule, AGP for respondents 1 and 2.

WITH
CIVIL APPLICATION NO. 12441 OF 2017 IN
CIVIL REVISION APPLICATION ST. NO. 31969 OF 2017

Dattu s/o Rama Bankar
(Deceased through LRs)

Applicants

Versus

The State of Maharashtra
& others

Respondents

Mr. R.V. Naiknavare, advocate for applicants.
Mr. A.M.Phule, AGP for respondents 1 and 2.

WITH
CIVIL REVISION APPLICATION ST. NO. 31969 OF 2017

Dattu s/o Rama Bankar
(Deceased through LRs)

Applicants

Versus

The State of Maharashtra
& others

Respondents

Mr. R.V. Naiknavare, advocate for applicants.
Mr. A.M.Phule, AGP for respondents 1 and 2.

WITH
CIVIL APPLICATION NO. 12442 OF 2017 IN
CIVIL REVISION APPLICATION ST. NO 31963 OF 2017

Bashu Ahamad Sayad

Applicant

Versus

The State of Maharashtra
& others

Respondents

Mr. R.V. Naiknavare, advocate for applicant.
Mr. A.M.Phule, AGP for respondents 1 and 2.

WITH
CIVIL REVISION APPLICATION ST. NO 31963 OF 2017

Bashu Ahamad Sayad

Applicant

Versus

The State of Maharashtra
& others

Respondents

Mr. R.V. Naiknavare, advocate for applicant.
Mr. A.M.Phule, AGP for respondents 1 and 2.

WITH
CIVIL APPLICATION NO. 12443 OF 2017 IN
CIVIL REVISION APPLICATION ST. NO. 31953 OF 2017

Sugriv Digambar Godse

Applicant

Versus

The State of Maharashtra
& others

Respondents

Mr. R.V. Naiknavare, advocate for applicant.
Mr. A.M.Phule, AGP for respondents 1 and 2.

WITH
CIVIL REVISION APPLICATION ST. NO. 31953 OF 2017

Sugriv Digambar Godse

Applicant

Versus

The State of Maharashtra
& others

Respondents

Mr. R.V. Naiknavare, advocate for applicant.
Mr. A.M.Phule, AGP for respondents 1 and 2.

WITH
CIVIL APPLICATION NO. 12444 OF 2017 IN
CIVIL REVISION APPLICATION ST. NO. 31950 OF 2017

Janardhan Kundlik Navgire Applicant

Versus

The State of Maharashtra
& others Respondents

Mr. R.V. Naiknavare, advocate for applicant.
Mr. A.M.Phule, AGP for respondents 1 and 2.

WITH
CIVIL REVISION APPLICATION ST. NO. 31950 OF 2017

Janardhan Kundlik Navgire Applicant

Versus

The State of Maharashtra
& others Respondents

Mr. R.V. Naiknavare, advocate for applicant.
Mr. A.M.Phule, AGP for respondents 1 and 2.

WITH
CIVIL APPLICATION NO. 12445 OF 2017 IN
CIVIL REVISION APPLICATION ST. NO. 31941 OF 2017

Vasant s/o Nagnth Ghodke Applicant

Versus

The State of Maharashtra
& others Respondents

Mr. R.V. Naiknavare, advocate for applicant.
Mr. A.M.Phule, AGP for respondents 1 and 2.

WITH
CIVIL REVISION APPLICATION ST. NO. 31941 OF 2017

Vasant s/o Nagnth Ghodke

Applicant

Versus

The State of Maharashtra
& others

Respondents

Mr. R.V. Naiknavare, advocate for applicant.
Mr. A.M.Phule, AGP for respondents 1 and 2.

CORAM : M.S. SONAK, J.
DATE : 10th JANUARY, 2018

ORAL ORDER :

1. Heard Mr. Naiknavare, learned counsel for applicants and Mr. A.M. Phule, learned AGP for respondents in all these matters.

2. Learned counsel for the parties agree that these matters can be disposed of by common judgment and order. Even otherwise, the orders impugned are virtually identical and arise out of the same circumstances. Accordingly, it is only appropriate that these matters are disposed of by common judgment and order.

3. At the outset, in each of these applications, there is delay of about 631 days in instituting revision applications. In civil applications seeking condonation of delay, it is stated that applicants who are agriculturists eke out a living as daily wagers. It is stated that their lands came to be acquired and the compensation offered to them by the Land Acquisition Officer was very inadequate. It is pointed out that they applied for reference within prescribed period of limitation and as such, references were infact made by the Collector to the reference Court. However, since

they were unaware of further steps which were required to be taken to process said references before the reference Court, the references have been returned to the Collector by the reference Court by impugned order, most of which are dated 03.10.2015 and only one of which is dated 05.10.2015 (in LAR No. 506/11). Learned counsel for applicants states that applicants relied upon the advocate to take necessary steps and were unaware of the impugned order. It is only upon their obtaining knowledge of the impugned order that these revision applications have been instituted with much difficulty before this Court. Learned counsel for applicants therefore submits that this is a fit case for condonation of delay since, sufficient cause has been shown in the matter.

4. On merits, Mr. Naiknavare repeats the very same submissions. He states that no notice was served upon the applicants or their advocate, requiring them to take steps. In any case, he submits that, taking into consideration the financial and social status of the applicants, their references ought not to have been disposed of or returned unanswered on account of default. Rather, the applicants deserve to be granted yet another opportunity for satisfying the reference Court that compensation awarded to them was inadequate and not corresponding to the market value. Mr. Naiknavare submits that, at the highest, the applicants can be put to some terms particularly, in the matter of receipt of benefits for the period during which some delay can be attributed on their part. He therefore submits that, the impugned orders are totally harsh and, in the facts and circumstances of the case, ought not to be allowed to stand.

5. Learned AGP Mr. Phule submits that, in such matters, it is doubtful whether the remedy of Civil Revision Application is applicable. In any case, he submits that there is no sufficient cause shown for condonation of delay of almost two years in institution of Civil Revision Application. He submits that the impugned orders indicate that references were pending before the reference Court for almost four years during which period, the applicants took no steps and therefore, reference Court had no option other than to make the impugned orders. For all these reasons, Mr. Phule submits that the applications seeking condonation of delay are liable to be dismissed and in any case, even the Civil Revision Applications are also liable to be dismissed.

6. In the peculiar facts of the present case, it is not necessary to go into the issue of maintainability of the Civil Revision Applications. This is really not a case where the references have been rejected on merit. But this is a case where the references have been returned to the Land Acquisition Officer simply because the applicants failed to take steps to process the same. The issue as to maintainability of Civil Revision Applications may be an arguable issue however, as indicated earlier, in the peculiar facts of the present case, that issue need not be gone into.

7. Insofar as applications seeking condonation of delay are concerned, it does appear that the applicants are agriculturists whose financial position is not quite sound. Applicants, on their part, had applied for reference within prescribed period of limitation and even paid prescribed Court fees. Thereafter, it is

reasonable to accept the contention of learned counsel Mr. Naiknavare that applicants indeed relied upon their advocate to take necessary steps and process the reference applications. There is nothing on record to indicate that any notices were issued to the applicants or their advocate requiring them to take steps within prescribed period.

8. Thus, there is sufficient cause shown for condonation of delay. Applications seeking condonation of delay are therefore allowed and disposed of accordingly. For the very same reasons, even the revision applications are liable to be allowed, the impugned orders dated 03.10.2015 and 05.10.2015 are liable to be set aside and, are hereby set aside. The references are restored to the file of reference Court.

9. Applicants, in each of the references are now directed to take steps within eight weeks from the date of production of authenticated copy of this order before the reference Court, so that notices are served upon respondents in the reference. It will be in the interest of parties if, all the parties i.e. applicants as well as respondents appear before the reference Court on 12th February, 2018 at 11.00 am and produce authenticated copy of this order. If this is done, then possibly, there may be no further necessity of service of notice upon respondents. In any case, if notices are deemed necessary, the applicants to take steps in that regard.

10. Though, references are restored, it is made clear that none of the applicants will be entitled to claim any benefit like interest etc.

for the period between 22.04.2014 and 12.02.2018 since, delay which has taken place during this period is primarily for reasons attributable to applicants themselves. Learned counsel for applicants agrees to this position and therefore, the reference Court is required to take note of the same. This will be a proper manner to balance the equities between the two parties.

11. Civil Applications and Civil Revision Applications are disposed of in the aforesaid terms. There shall be no order as to costs.

12. All concerned to act upon authenticated copy of this order.

(M.S. SONAK, J.)

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