

FARAD CONTINUATION SHEET
 IN THE HIGH COURT OF JUDICATURE AT BOMBAY
 CIVIL APPELLATE JURISDICTION
 CIVIL APPLICATION NO.19/2018
 IN
 CROSS OBJECTION (ST) NO.10147/2017
 IN
 FIRST APPEAL NO.1360/2013

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Aniket B. Deshkar for the Applicant
 Mr. A. R. Patil, AGP for the Respondent

**CORAM : K. K. TATED &
 SARANG V. KOTWAL, JJ.**

DATE : JANUARY 30, 2018

P.C.:

1. Heard. This Application is made by the original claimant for condonation of delay in filing the Cross Objections in the First Appeal preferred by the State of Maharashtra.

2. The learned counsel for the Applicant submits that in the present proceedings, the Special Land Acquisition Officer has issued Notification u/s.4 of the Land Acquisition Act, 1894 for acquiring the land from village Dongari, Tq. Uran, Dist. Raigad for New Bombay Project. After following due process of law the Special Land Acquisition Officer has passed the Award dated

25.09.1989 and awarded compensation of Rs.90,024/-. Being aggrieved by the said Award, they preferred Reference u/s.18 of the Land Acquisition Act, 1894 claiming compensation @ Rs.1500/- per sq.mtr. with all statutory benefits.

3. The Reference Court by judgment and award dated 21.12.2012, awarded compensation in respect of the acquired land @ Rs.500/- per sq.mtr. instead of Rs.1500/- per sq.mtr., as claimed by the claimant.

4. The learned counsel for the Applicant submits that though they had decided to prefer the First Appeal, it was not preferred because of financial crisis. Thereafter they learnt that the State of Maharashtra has preferred the present First Appeal challenging the judgment and award passed by the Reference Court. Immediately thereafter they filed vakalatnama on 16.01.2014 without notice from this court. He submits that they received notice from this court on 22.01.2014. He submits that because of financial crisis, it was not possible for them to file Cross Objections for enhanced compensation on the basis of the Judgment and Award passed by this court in First Appeal No.1323.2002 arising from the same area. He submits that as soon as arrangement for

payment of court fees is made, they filed the Civil Application for condonation of delay to file Cross Objections. The learned counsel for the Applicant submits that the Applicant has good chance of success in the matter. He submits that on the basis of the Judgment and Award passed by this court, in First Appeal No.1323/2002 they are entitled to enhanced compensation. He submits that in the interest of justice, delay be condoned. If delay in filing the Cross Objection is not condoned the Applicant would suffer irreparable loss, harm and injury.

5. The learned AGP for the Respondent State vehemently opposed the Civil Application. He submits that there is no sufficient cause for condonation of more than three years delay. He submits that even if the delay is condoned, the Applicant should not be entitled to interest and component u/s.23(1A) of the Land Acquisition Act, 1894, for this delayed period.

6. Heard both sides at length. It is to be noted that because of financial crisis it remained on the part of the claimant to file Cross Objections. As soon as they learnt about the judgment and award passed by this court in First Appeal No.1323/2002 in which additional compensation awarded in

respect of the land from the same locality, they made arrangement for payment of court fees and filed the present Civil Application.

7. Considering the submissions made by the learned counsel for the Applicant and the averments made in the Application, we are satisfied that the Applicant has made out a case for allowing the present Civil Application. At the same time it is to be noted that for this delayed period the claimant will not be entitled to any additional benefits i.e. 12% component payable u/s.23(1) of the Land Acquisition Act, 1894 and interest for this delayed period.

8. Hence, following order is passed:

- a. Delay in filing the Cross Objections is condoned.
- b. The Applicant is not entitled to additional compensation i.e. 12% component u/s.23(1A) of the Land Acquisition Act, 1894 and interest for this delayed period.
- c. Civil application stands disposed off accordingly.

(SARANG V. KOTWAL,J.)

(K.K.TATED,J.)