

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 9644 OF 2016

Lahu Arjuna Patil & Ors. ...Petitioner
Versus
The State of Maharashtra & Ors. ...Respondents

WITH

WRIT PETITION No. 9645 OF 2016

Mahipati Rama Patil ...Petitioner
Versus
The State of Maharashtra & Ors. ...Respondents

WITH

WRIT PETITION No. 9646 OF 2016

Bapu Vakoba Rajgire ...Petitioner
Versus
The State of Maharashtra & Ors. ...Respondents

WITH

WRIT PETITION No. 9647 OF 2016

Aakkatai P. Patil ...Petitioner
Versus
The State of Maharashtra & Ors. ...Respondents

WITH

WRIT PETITION No. 9648 OF 2016

Chhaya Machindra Patil ...Petitioner
Versus
The State of Maharashtra & Ors. ...Respondents

WITH

WRIT PETITION No. 9649 OF 2016

Ananda Bapu Patil ...Petitioner
Versus
The State of Maharashtra & Ors. ...Respondents

WITH

WRIT PETITION No. 9650 OF 2016

Eknath Shripati Magdum and Ors. ...Petitioner
Versus

The State of Maharashtra & Ors. ...Respondents

WITH
WRIT PETITION No. 9651 OF 2016

Anil Jaysing Magdum and Ors. ...Petitioner
Versus
The State of Maharashtra & Ors. ...Respondents

WITH
WRIT PETITION No. 9652 OF 2016

Shamrao Nana Patil ...Petitioner
Versus
The State of Maharashtra & Ors. ...Respondents

WITH
WRIT PETITION No. 9653 OF 2016

Madhukar Antu Patil and Ors. ...Petitioner
Versus
The State of Maharashtra & Ors. ...Respondents

WITH
WRIT PETITION No. 9654 OF 2016

Bandu Daulu Patil ...Petitioner
Versus
The State of Maharashtra & Ors. ...Respondents

WITH
WRIT PETITION No. 9655 OF 2016

Smt. Anjani S. Patil and Ors. ...Petitioner
Versus
The State of Maharashtra & Ors. ...Respondents

WITH
WRIT PETITION No. 9656 OF 2016

Raghunath D. Patil and Ors. ...Petitioner
Versus
The State of Maharashtra & Ors. ...Respondents

WITH
WRIT PETITION No. 9657 OF 2016

Ravindra Baburao Magdum and Ors. ...Petitioner
Versus

The State of Maharashtra & Ors.

...Respondents

WITH

WRIT PETITION No. 9658 OF 2016

Shama Rama Patil and Anr.

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

WITH

WRIT PETITION No. 9659 OF 2016

Raghunath Dhondiram Patil

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

WITH

WRIT PETITION No. 9660 OF 2016

Bapu Vakoba Ragjire

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

Mr. P. S. Bhavake for the Petitioners.

Mr. P. P. Sawant, AGP for the Respondent-State.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.

Date : **January 25, 2018.**

P. C. :

1. Heard the learned counsel for the Petitioners. By these petitions the Petitioners are challenging the impugned orders dated 29th June 2016 passed by the Deputy Collector (Land Acquisition No.6, Kolhapur), dismissing the applications for condonation of delay in filing application under Section 64(2)(b) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short "the Land Acquisition Act, 2013").

2. The land of the Petitioners was acquired under award dated 15th October 2014. Not being satisfied with the compensation, the Petitioners filed applications for reference under Section 64 of the Land Acquisition Act, 2013. The Petitioners had also filed applications for condoning the delay in filing the said applications. The said application was rejected by Respondent No. 3 by passing the order impugned in this petition, being Order dated 29th June 2016.

3. Section 64 (2) of the Land Acquisition Act, 2013, which prescribes the period for filing the application reads thus :

"Section 64(2): The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made-

- (a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;
- (b) in other cases, within six weeks of the receipt of the notice from the Collector under section 21, or within six months from the date of the Collector's award, whichever period shall first expire:

Provided further that the Collector may entertain an application after the expiry of the said period, within a further period of one year, if he is satisfied that there was sufficient cause for not filing it within the period specified in the first proviso."

4. A plain reading of this provision indicates that the application under Section 64 of the Land Acquisition Act, 2013 has to be made within the period specified in clauses (a) & (b) of sub-section (2) of section 64. This section also confers powers on the Collector to entertain such application after the expiry of the said period, within a

further period of one year on being satisfied that there was sufficient cause for not filing the application within the period specified in the first proviso.

5. In the present case, it is not in dispute that on 9th August 2015, Petitioners were served with the notice of award under section 31 of the Land Acquisition Act, 2013 [i.e., notice dated 5th August 2015]. Hence, the application under Section 64 of the Land Acquisition Act, 2013 was required to be filed within six weeks from 5th August 2015, i.e. on or before 16th September 2015. In terms of the proviso to Section 64(2) the Collector has powers to entertain the applications within a further period of one year i.e. till 15th September 2016 provided there were sufficient grounds for not filing the applications within the period specified in the first proviso.

6. The records reveal that the Petitioners had filed applications under Section 64 of the Land Acquisition Act, 2013 on 12th October 2015. Respondent No.3 has dismissed the said applications on the ground that no sufficient reason or explanation was given by the Petitioner for condonation of delay. It is to be noted that though the said applications were beyond the period specified in the first proviso, the same were within the period specified in the second proviso. Hence, the Collector was competent to entertain the same on being satisfied that the Petitioners had sufficient cause for not filing the applications within the period specified in the first proviso.

7. In the applications for condonation of delay, the Petitioner had stated that he is an illiterate agriculturist, who had no

knowledge of law. Moreover it can be seen from the record that on 21st August 2015 Respondent No.3 endorsed the stamp as “paid and accepted” on the notice of award and handed over the said notice with acknowledgment, to the Petitioner on 28th September 2015. It is further stated that due to drought like conditions, they could not pay sufficient attention to adopt the legal course.

8. We find that reasons stated in the application constitute sufficient ground to condone the delay. The delay was not inordinate and taking a justice oriented approach, the Collector ought to have condoned the delay.

9. In the light of above, the impugned orders cannot be sustained. Hence, we set aside the impugned orders and condone the delay occurred in filing the applications under section 64 of the Land Acquisition Act, 2013. The Collector shall refer the said applications of the Petitioners [namely, the applications dated 9th October 2015] to the Land Acquisition, Rehabilitation and Settlement Authority constituted in accordance with law.

10. The Writ Petitions stand disposed of accordingly.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]