

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.133/2017
IN
CROSS OBJECTION (ST) NO.27702/2016

Hari Posha Mhatre & Ors.

... Applicants

V/s.

State of Maharashtra & Ors.

... Respondents

Mr. Shivshankar D. Patil for the Applicants
Mr. A. R. Patil, AGP for the Respondent No.1.

**CORAM: K.K. TATED &
S. K. SHINDE, JJ.**

DATED : AUGUST 27, 2018

P.C. :

1 Heard. By this Civil Application, the Applicant claimant is seeking to condone 502 days delay in filing the cross objections.

2 The learned counsel for the Applicant claimant submits that in the present proceedings, the Special Land Acquisition Officer had issued Notification u/s.4 of the Land Acquisition Act, 1894 (said Act) on 25.11.1986 for acquiring their land from village Bokadvira, Tq. Uran, Dist. Raigad for New Mumbai Project. He submits that after following due process of law, the Special Land Acquisition Officer had declared the award and awarded the compensation in respect of the acquired land. He submits that being aggrieved by the said Award, the claimant had preferred Reference u/s.18 of the said Act claiming

enhanced compensation. He submits that the Civil Judge, Senior Division, Alibaug, by its judgment dated 31.01.2011 awarded compensation only @ Rs.600/- psm. He further submits that said award is challenged by the State by filing the present First Appeal. Hence, the cross objections.

3 The learned counsel for the Applicant submits that because of financial difficulties, there was delay on the part of the claimant to file cross-objections within time. He submits that in the interest of justice, this Hon'ble Court be pleased to condone the delay in filing the cross-objections. He submits that if delay is not condoned, irreparable loss will be caused to the claimant.

4 On the other hand, the learned AGP for the State vehemently opposed the Civil Application. He submits that the Applicant has not shown any sufficient cause for condonation of inordinate delay. He submits that if this court comes to the conclusion that the claimants have made out a case for condonation of delay, then this Hon'ble Court be pleased to hold that the claimants will not be entitled to the interest benefit as per the Land Acquisition Act, 1894 for this delayed period, if they succeed in the cross-objections.

5 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.

6 Hence, the following order:

- a) Delay in filing the cross-objection is condoned.
- b) It is made clear that if the claimant succeeds in the cross-objection, they will not be entitled to interest on compensation as per the Land Acquisition Act, 1894 for this delayed period.
- c) Civil Application stands disposed of accordingly.

(S. K. SHINDE, J.)

(K. K. TATED, J.)