IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

916 CIVIL APPLICATION NO. 1828 OF 2018
IN FAST/1157/2018
WITH CA/1830/2018 IN FAST/1250/2018
WITH CA/1833/2018 IN FAST/1253/2018
WITH CA/1835/2018 IN FAST/1256/2018
WITH CA/1838/2018 IN FAST/1259/2018
WITH CA/1840/2018 IN FAST/1263/2018
WITH CA/1842/2018 IN FAST/1241/2018
WITH CA/1844/2018 IN FAST/1792/2018
WITH CA/1846/2018 IN FAST/1244/2018

THE EX. ENGINEER, IRRIGATION PROJECT MAJBUTIKARAN
DIV. OMERGA AND OTHERS
VERSUS
SHARNAPPA SIDHAPPA KUMBHAR (DIED)
THROUGH LRS MAHADEVI AND OTHERS

Advocate for Applicants : Mr. A.N. Gaddime.
Advocate for Applicant No. 3 in CA/1828/18, CA/1833/18,
CA/1835/18, CA/1838/18, CA/1840/18, CA/1842/18,
CA/1844/18, CA/1846/18 : Mr. G.B. Rajale.
Advocate for Respondents : Mr. L.C. Patil.

CORAM : MANGESH S. PATIL, J.
DATE : 10.12.2019

PER COURT :

Heard.

2. There are delay of 1252 days in filing First Appeals by acquiring body.

3. The learned advocate for the acquiring body submits that as mentioned in the application for making compliance with the procedural

aspect time was spent. Being a State machinery a proposal was required to be made for preferring appeals. It was thereafter to be approved. The Court fees was to be arranged, an advocate was to be engaged and all these facts cumulatively resulted in delay, which may be condoned.

2. The learned advocate for the original claimants opposes the applications. He submits that the delay is enormous and has not been properly explained. State machinery does not have special consideration in such matters. The claimants are being deprived of their right to receive compensation and the delay may not be condoned.

3. Bearing in mind the reasons mentioned in the applications and the principles governing such applications laid down in catena of judgments including ***Collector, Land Acquisition Anantnag Vs. Mst. Katiji and Others,*** **1987 AIR (SC) 1353,** the foremost circumstance that needs to be borne in mind is that *prima facie* there is nothing to demonstrate that the acquiring body has some ulterior motive in not preferring the appeals in time. There is nothing to show that it is prompted by mala fides. Bearing in mind that there is heavy burden of paying interest at an alarming rate in view of statutory provisions, the acquiring body would stand to lose rather than gain anything by causing the delay. Bearing in mind all these circumstances the delays are condoned.

4. Register the appeals.

5. Issue notice in the appeals. Learned advocate for the original claimants Mr. L.C. Patil, waives service.

6. Appeals stand admitted.

7. Learned advocate Mr. L.C. Patil, waives service after admission.

8. Call record and proceedings.

(MANGESH S. PATIL, J.)

S.P.C.