

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CIVIL APPLICATION NO.4168 OF 2015 IN FAST/5568/2015**

THE STATE OF MAHARSHTRA AND ANOTHER
VERSUS
VIKRAM SAKHARAM NIMBALKAR AND ORS

...
AGP for Applicants – State : Mr. A. M. Phule
Advocate for Respondents No.1 to 3 : Mr. Dattatraya R. Jayabhar

...
**WITH CA/4164/2015 IN FAST/5650/2015
WITH CA/4165/2015 IN FAST/5650/2015
WITH CA/4166/2015 IN FAST/5653/2015
WITH CA/4167/2015 IN FAST/5653/2015
WITH CA/4169/2015 IN FAST/5568/2015**

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**CORAM : K.K. SONAWANE, J.
DATED : 17th JUNE, 2019**

Order :-

The applicant - State of Maharashtra moved present application for condonation of 1007 day's delay to prefer the First Appeal against the impugned Judgment and Award passed by learned Reference Court in LAR No. 596, 597 and 598 of 2010 dated 31-01-2012. It has been contended that the so-called delay caused for filing First Appeals against the impugned Judgment and Award passed by learned Reference Court is not intentional and deliberate, but caused due to compliance of official procedure. Therefore, delay may be condoned.

2. It is to be noted that, there is inordinate and huge delay caused to file the appeal against the impugned Judgment and Award passed by the learned Reference Court. The authority of the appellant- State of Maharashtra did not take reasonable precaution with due diligence to prefer an appeal within the prescribed period of limitation. Moreover, the market value determined by the Land Acquisition Officer as well as the amount of enhanced compensation awarded by the learned Reference Court, if taken into consideration, it appears that the

enhancement of compensation granted by the learned Reference Court under Section 18 of the Land Acquisition Act, 1894, is not so much excessive and exorbitant one.

3. It is worth to mention that the Government of Maharashtra vide Government Resolution dated 03-11-2016 and its subsequent corrigendum dated 23-02-2017 and 13-08-2018, has taken a policy decision that in case the enhanced compensation amount granted by the learned Reference Court is less than four times of ready reckoner rates, prevailing over the vicinity of the acquired land, during the period of notification under Section 4 of the Land Acquisition Act, in such circumstances, there would not be any propriety to file appeal against the impugned Judgment of Reference Court, before the appellate forum.

4. In the matter in hand, the relevant documents placed on record adumbrates that the market rate determined by the Land Acquisition Officer and the enhancement of compensation awarded by the learned Reference Court, are not beyond the prescribed limit for filing an appeal by the Government in the aforesaid notification. The enhanced compensation amount, granted by the learned Reference Court is less than four times of ready reckoner rates prevailing over in the vicinity during the period of notification under Section 4 of the Land Acquisition Act in this case. In such background, even if the so called delay caused for filing the appeal is condoned at the behest of the applicant - State of Maharashtra, it would not sub-serve the purpose, as the chances of success of the applicant - State of Maharashtra in the appeal are totally bleak and the respondent/claimant has every right to take benefit of the said policy decision adopted by the applicant - State of Maharashtra. Therefore, the entire process of filing the appeal would

be a futile effort and dissipate the precious time of the court of law.

5. The learned AGP has also fairly conceded that the amount of enhanced compensation awarded by; the learned Reference Court is less than the prescribed limit of four times of the ready reckoner rates, within the vicinity during the relevant period. In such circumstances, there is no propriety to condone the delay for an opportunity to the applicant to prefer an appeal to redress its grievances about the enhancement of compensation granted by the Reference Court. Moreover, as observed supra, there is a huge and inordinate delay for filing the appeal. The reasons mentioned by the applicant – State of Maharashtra appears to be so casual in nature. There were no endeavour with due diligence to comply the procedural formalities for filing an appeal within the stipulated period.

6. In such circumstances, I do not find it justifiable to condone the inordinate and huge delay to afford an opportunity to the applicant – State of Maharashtra to file appeal. In case delay is condoned, it would cause injustice and prejudice to the respondents, on reopening of the matter after a colossal delay. Therefore, I am not inclined to nod in favour of the applicant.

7. In view of above discussion, the Civil Applications for condonation of delay, being devoid of merit stand dismissed. No orders as to costs. Consequently, Civil Applications No. 4169, 4167 and 4165 of 2015 for stay stand disposed of.

[K. K. SONAWANE, J.]