

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

907 CIVIL APPLICATION NO.13176 OF 2017
IN FAST/7139/2017 WITH CA/13178/2017 IN FAST/7198/2017 WITH CA/
13180/2017 IN FAST/7201/2017 WITH CA/13182/2017 IN
FAST/7204/2017 WITH CA/13184/2017 IN FAST/7195/2017

THE EX. ENGINEER, I.P.S.D. OMERGA, THR MEDIUM PROJECT DIVISION,
OSMANABAD AND ORS

VERSUS

SHIVAJI VASANT JOT

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Advocate for Applicants : Mr. Patil Ruturaj C.

Advocate for Respondents : Mr. Patil Kalyan V. & Mr. Wakure Sanjay A. in
respective applications.

CORAM : MANGESH S. PATIL, J.

DATE : 29/11/2019

PER COURT :

Heard both the sides.

2. These are the applications for condonation of delay in filing the appeals by the Acquiring Body challenging the judgment award passed by the Reference Court under Section 18 of the Land Acquisition Act.

3 The learned advocate for the Acquiring Body submits that the Project for which the lands were acquired was subsequently transferred to another Division which resulted in causing the delay. The finances were to be arranged for the new Division which further added to the delay. It has occasioned without any *mali fides* and it be condoned.

3. The learned advocates for the original claimants strongly submit

that at every stage the Acquiring Body has to be blamed for causing the delay. The delay has not been properly explained. Besides, even after filing the appeals in the year 2017 along with these applications for condonation of delay, the Acquiring Body has not been prompt in prosecuting the matter. A stay has been obtained to the execution of the impugned Award but it failed to comply with the condition imposed of depositing the amount of Award together with interest. Even till date it has not complied with that condition for last more than a year.

4. I have carefully gone through the papers. Indeed, there is an enormous delay of more than four years in filing the appeals by the Acquiring Body. Assuming for the sake of arguments that there was a justifiable reason in as much as the project is stated to have subsequently changed hands and was transferred to another Division, still during pendency of this proceeding the conduct of the Acquiring Body is equally lethargic. In spite of having obtained stay to the execution about more than a year back, it has failed to comply with the condition of depositing the entire amount of Award together with interest. True it is that, that was a condition imposed for grant of stay and if it is not complied the original claimants are open to prosecute the Execution Proceeding and that cannot be a ground to refuse to condone the delay. However, it clearly demonstrates the conduct of the Acquiring Body.

5. Since few other appeals from the same group have already been

allowed to be filed by condoning the delay, the learned advocate for the applicants submit that even if the delay is condoned in this matter, the Acquiring Body be put to a condition to deposit the amount of Award together with interest.

6. Since two other appeals have already been registered by condoning the delay, for the reasons mentioned in the applications the delay even in these matters deserves to be condoned, however in my considered view subject to imposition of some costs.

7. The delays in all these matters are condoned subject to the Acquiring Body depositing costs of Rs. 1000/- (Rs. One Thousand only) in each of these matters within four weeks.

8. The Civil Applications are disposed of.

(MANGESH S. PATIL, J.)

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