

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

**22 CIVIL APPLICATION NO. 8570 OF 2017
IN FAST/11876/2017**

**THE STATE OF MAHARASHTRA AND OTHERS
VERSUS
MAHADEO SHIVAJI BAGAL**

AGP for Applicants : Mr. Y.G. Gujarathi.
Advocate for Respondent : Mr. L.C. Patil.

**CORAM : MANGESH S. PATIL, J.
DATE : 09.12.2019**

PER COURT :

Heard both the sides.

2. There is a delay of 937 days in preferring appeal against the judgment and order passed by the reference Court.

3. The learned AGP submits that the delay has occasioned so as to comply with the office procedure of submitting proposal to the Law and Judiciary Department, for its consideration and approval. Some time was also consumed for collecting papers and all these have added to the delay. The State would not gain anything by delaying filing of the appeal, particularly when heavy burden of payment of interest is being shouldered by the acquiring body.

4. The learned advocate for the original claimant opposes the application. He submits that the delay has not been properly explained. The acquiring body is avoiding to make payment of the compensation amount. Even till date, nothing has been deposited and the application may be

rejected.

5. I have gone through the papers. The State machinery which does not have any special consideration while seeking condonation of delay. However, as has been laid down in the case of ***Collector, Land Acquisition, Anantnag Vs. Mst. Katiji and Others***, 1987 AIR (SC) 1353, following the principles laid down therein, there is absolutely nothing to demonstrate that the delay has been caused with some ulterior motive or that the acquiring body was to gain anything by causing the delay. If nothing is deposited in the Court pursuant to the impugned judgment, it was always for the claimant to seek execution of the judgment and award. It cannot be a ground to refuse condonation of delay which otherwise is explained.

6. Coupled with the grounds mentioned in the application, even it is apparent that the interest under Section 28 of the Land Acquisition Act, has been awarded from the date of possession when it ought to have been from the date of the award. Unless the appeal is entertained on merits, such a direction by the reference Court would unnecessarily add to the public exchequer.

7. In view of all the aforementioned reasons, the delay is condoned.

(MANGESH S. PATIL, J.)

S.P.C.