

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

918. CIVIL APPLICATION NO.8478 OF 2017

IN FAST/12540/2017

WITH

CIVIL APPLICATION No. 8480 of 2017

IN FAST/12656/2017

THE STATE OF MAHARASHTRA AND ORS

VERSUS

SOMNATH VISHWANATH BETKAR

Mr. G.O. Wattamwar, Asstt. Govt. Pleader for applicants
Mr. L.C. Patil, Advocate for respondent

CORAM : V.L. ACHLIYA, J.

DATE : 10th April, 2019

PER COURT :

1. Both the applications are filed by the applicants-appellants for condonation of 850 days' delay caused in filing appeal against the judgment and award passed by the Reference Court.
2. Heard the learned Asstt. Govt. Pleader for the applicants-appellants and the learned Counsel representing the respondent i.e.

claimant.

3. In brief, it is the contention of the learned Assistant Government Pleader that the delay caused in filing appeal is not deliberate but caused due to the reasons set out in detail in the application. It is submitted that after the awards were passed, the proposal was prepared and sent to the Law and Judiciary Department for legal opinion and sanction to filing appeal. The awards were passed on 12th September 2014. The approval for filing appeal was received on 21st April 2015. It was entrusted to the office of the Public Prosecutor for drafting the same on 23rd October 2016 and ultimately the appeals were presented on 23rd March 2017. It is submitted that the considerable time was spent in to prepare copies of the judgment & order and draft the appeals and file the same in Court. It is submitted that the Special Land Acquisition Officer has awarded the compensation @ Rs. 500/- per Are and the Reference Court has enhanced the same from Rs. 500/- per Are to Rs. 6600/- per Are and, that too, without any evidence being adduced by claimants to support such multi-fold enhancement. The learned Asstt. Govt. Pleader submits that the enhancement of more than 11 times has been granted on the basis of the judgment and order passed in another reference decided in respect of different village and different project. It is submitted that

the appellants have good case to succeed in appeal. In case delay is not condoned, there is every likelihood that the meritorious matter may be rejected due to technical reasons. In case delay is condoned, no serious prejudice would cause to the other-side. In support of the submissions, the learned Assistant Government Pleader referred and relied upon the decision of the Apex Court in the case of **In the case of Collector, Land Acquisition, Anantnag vs Mst. Katiji (AIR 1987 SC 1353)**, wherein the Apex Court has held that while dealing with the application seeking condonation of delay, the Court must adopt liberal and pragmatic approach and ensure that meritorious matter may not be rejected on technical grounds.

4. On the other hand, the learned counsel for the respondent submits that the delay may be condoned by directing the applicants-appellants to deposit the amount in terms of the awards.

5. I have carefully considered the submissions advanced in the light of cause assigned to condone the delay. Although the applicants appear to have acted negligently, still in public interest the delay deserves to be condoned. The delay and the laches on the part of the official from acquiring body as well as in the office of

the Government Pleader should not defeat the public interest. While awarding the fair compensation to the claimants, it is equally essential that the compensation must be based upon legally sustainable evidence and enhancement of compensation should not be arbitrary or as per whims of desire of reference court. In the case in hand, the Special Land Acquisition Officer has awarded the compensation at the rate of Rs. 500/- per Are and same has been enhanced to Rs. 6600/- per Are, which is about 11 times the compensation awarded by the Special Land Acquisition Officer and, that too, on the basis of the reference decided in respect of another project from different village. In that view, the matter requires consideration. In case delay is not condoned, the possibility of serious prejudice may cause to the applicants vis-a-vis cannot be ruled out. On the contrary, if delay is condoned, the case will be decided on its own merits. So far as the submission made by the learned Counsel for the respondent that the delay may be condoned by directing the applicants to deposit the amount in terms of the awards, same shall be taken into consideration while dealing with the application to stay the execution of the judgment and award.

6. In view of above, I am inclined to condone the delay.

Accordingly the applications are allowed in terms of prayer clause "B" in respective applications. The appeals be registered and place for admission on 27th June 2019.

7. Mr. L.C. Patil, learned Counsel representing the respondent waives service of notice of appeal for the respondent/s in respective appeals.

8. Call the record and proceedings.

9. Stand over to 27th June 2019.

(V.L. ACHLIYA)
JUDGE

Madkar