

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 7510 OF 2017
IN
FIRST APPEAL STAMP NO. 14460 OF 2017
WITH
CIVIL APPLICATION NO. 7512 OF 2017
IN
FIRST APPEAL STAMP NO. 14457 OF 2017

THE EXECUTIVE ENGINEER
VERSUS
BAJIRAO VISHWANATH GAIKWAD

Advocate for Applicant : Mr. B.A. Bhagwat.
Advocate for Respondent : Mr. S.A. Wakure.

CORAM : MANGESH S. PATIL, J.
DATE : 03.12.2019

PER COURT :

Heard both the sides.

2. These are applications for condonation of delay under Section 5 of the Limitation Act, 1963, by the acquiring body in preferring the appeals impugning the judgment and award passed by the reference Court under Section 18 of the Land Acquisition Act. The delay is of 2643 days.

3. The learned advocate for the acquiring body submits that due to the procedural lapses, the delay has occasioned and only after getting knowledge of passing award, time is taken for necessary arrangement for preferring the appeals by obtaining approval from the appointed officers and appointing advocates and arranging the fees. Delay has occasioned *bona fide*.

4. In the case of *Collector, Land Acquisition, Anantnag Vs. Mst. Katiji*, **1987 AIR (SC) 1353**, the Supreme Court has laid down the guidelines for condonation of delay. The learned advocate for the acquiring body further pointed out that the reference court has committed gross error in awarding compensation under Section 28 of the Land Acquisition Act, not from the date of award but from the date of the notification. The legality of the award is challenged in the appeal if the appeal is not entertained by this Court, it would be a loss to the public exchequer.

5. The learned advocate for the original claimant opposes on the ground that the delay has not been properly explained. Though, each day's delay may not be expected to be explained, there must be averments in the application which are absent. No sufficient cause is shown. The application are is devoid of merits.

6. I have carefully gone through the papers. I have considered the ratio laid down by the Supreme Court in the case of *Collector, Land Acquisition, Anantnag (supra)*. *Prima facie*, there is no material to show that the acquiring body was to gain anything by causing delay in filing appeals. On the contrary, the acquiring body would be required to pay interest for the period of delay and it would stand to lose by not preferring an appeal in time. There is also apparent dispute as to the award of interest under Section 28 of the Land Acquisition Act.

7. Considering all these aspects, the delay deserves to be condoned and is accordingly condoned.

(MANGESH S. PATIL, J.)