

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

915 CIVIL APPLICATION NO.10721 OF 2009
IN
FAST/20368/2009

THE STATE OF MAH THROUGH COLLECTOR
VERSUS
BHAGWAN MANIKRAO DESHPANDE(DIED) THROUGH
LRS BAPURAO

WITH
CA/10723/2009
IN
FAST/20307/2009
THE STATE OF MAH THROUGH COLLECTOR
VERSUS
BALWANT SHANKARRAO DESHPANDE

WITH
CA/10724/2009
IN
FAST/20365/2009
THE STATE OF MAH THROUGH COLLECTOR
VERSUS
DATTU MARUTI PANGE

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Mr. G.O.Wattamwar, Advocate for Applicant - State.
Mr. V.S.Kadam, Advocate for Respondent – absent.

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CORAM : V.L.ACHLIYA, J.

DATE : 12/04/2019

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ORAL ORDER :

1. All these applications are taken up for disposal together as same are filed seeking condonation of delay of 251 days caused in filing respective appeals

arising out of common Judgment and award dated 24/09/2008 passed by the Reference Court i.e. Civil Judge [S.D.], Osmanabad in L.A.R. No. 126/2004 [old L.A.R. No. 16/1993], in L.A.R. No. 125/2004 [old L.A.R. No. 15/1993] and in L.A.R. No. 129/2004 [old L.A.R. No. 19/1993].

2. Heard learned A.G.P. for applicant – State in respective appeals. None present for the respondent though served and recorded appearance through Advocate.

3. In brief, it is the contention of learned A.G.P. for applicant – State in respective appeals that the delay caused in filing appeal was occurred mainly due to preparing the proposal and securing sanction from the State Govt. as well as arranging funds to present the respective appeals. It is submitted that if delay is not condoned, there is every likelihood that serious prejudice would cause to the applicant – State. The compensation awarded by the Special Land Acquisition Officer @ Rs. 150/- per R. has been enhanced to Rs. 1,000/- per R. without any evidence adduced before the reference Court seeking enhancement of compensation. While awarding compensation, the sale instances of different villages located at far away distance have been taken into consideration by the reference Court. The enhancement of compensation of more than six times

is totally unsustainable in law.

4. I have carefully considered the submissions advanced in the light of unchallenged pleadings made in the applications assigning cause for condonation of delay. The respondent though served and recorded appearance through Advocate, failed to contest the application on merit. In absence of challenge to the pleadings made in the applications, the cause assigned deserves to be accepted as sufficient cause for condonation of delay. The delay caused in filing appeal can not said to be inordinate delay. The applicant – acquiring body is a State Govt. while dealing with the application seeking condonation of delay, the Court is expected to adopt a pragmatic and liberal approach and in the matter of State Govt. some latitude needs to be shown while exercising judicial discretion. Keeping in mind the broad principles laid down by Apex Court in the case of ***Esha Bhattacharjee V/s Managing Committee of Raghunathpur Nafar Academy and others reported in (2013)12 S.C.C. 649, in the facts and circumstances of the case***, I am of the view the delay caused in filing appeal deserves to be condoned. I am, therefore, inclined to allow the applications seeking condonation of delay in respective appeals.

5. Accordingly, C.A. No. 10721 of 2009 in F.A. St. 20369 of 2009, C.A. No. 10723 of 2009 in F.A. St.

(4) 915 CA 10721.2009 in FSt.20369.2009

20307 of 2009 and C.A. No. 10724 of 2009 in F.A. St. 20365 of 2009 are allowed with no order as to costs. The appeals be registered and place for admission on 18/06/2019.

6. S.O. 18/06/2019.

[V.L.ACHLIYA]
JUDGE

KNP.