IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

905 CIVIL APPLICATION NO.9843 OF 2018
IN FAST/20618/2018
WITH CA/9845/2018 IN FAST/20899/2018
WITH CA/9847/2018 IN FAST/20904/2018
WITH CA/9849/2018 IN FAST/20895/2018
WITH CA/9851/2018 IN FAST/20887/2018
WITH CA/9853/2018 IN FAST/20909/2018
WITH CA/9855/2018 IN FAST/20891/2018
WITH CA/9857/2018 IN FAST/20873/2018
WITH CA/9859/2018 IN FAST/20877/2018
WITH CA/9861/2018 IN FAST/20881/2018
WITH CA/9863/2018 IN FAST/20919/2018
WITH CA/9865/2018 IN FAST/20915/2018
WITH CA/9867/2018 IN FAST/20868/2018

THE EX. ENGINEER, MINOR IRRIGATION DIVISION,
OSMANABAD AND ORS
VERSUS
SHRIHARI BABURAO WADKAR

...

Mr. R.C. Patil, Advocate for the applicant No.1

Mr. M.S. Patil, Advocate for the sole respondent

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 20th JUNE, 2019

PER COURT :

1 Learned Advocate for the appellant No.1 is submitting that though this Court had directed the appellant to deposit the amount within

eight weeks from 03.08.2018 he could get the cheque yesterday and he is ready to deposit the same. Though the action on the part of the appellant No.1 does not appear to be inconsonance with the directions given by this Court, yet, taking into consideration that the said amount was due to the respondent the appellant is allowed to deposit the said amount in this Court. Office to accept the cheque.

2 Present applicants have been filed for getting the delay of 1602 days condoned in filing First Appeal. It has been contended that the applicant was required to obtain legal opinion then permission and sanction to file appeal and thereafter, since various matters were required to be filed and there was no budgetary provision, the financial sanction was obtained from various authorities. It is stated that due to non availability of funds the appellant could not arrange for the Court fees. After crossing all the hurdles it is stated that the amount for the Court fee was received by the Advocate on 05.05.2018 and thereafter the appeal has been drafted and presented. It is stated that the delay is unintentional.

3 The applications have been objected by the respondents on the ground that the huge and inordinate delay has not been properly explained. The certified copies of the Award has been received by the applicant on

13.01.2015 itself.

4 The first and the foremost fact that is required to be considered is that being the acquiring body the applicant No.1 would have made the sufficient budgetary provisions but the huge lands have been acquired. The acquiring body cannot be allowed to put an excuse that there was no budgetary provision, as the action or probability of filing appearance ought to have been contemplated or predicted. Further, when the certified copies were ready and taken by the applicant on 13.01.2015 itself then all the authorities ought to have moved swiftly. At the same time, when the applicant intends to challenge the award on the point of exorbitant amount of compensation and when it is directly connected to the public exchequer, the rights and duties of the applicant are also required to be protected. Taking into consideration the reasons mentioned that as per the procedure the permission and sanction are required to be obtained from various authorities. It can be said that grounds are sufficient to condone the delay, however, the inconvenience that is caused to the respondents deserve to be compensated taking into consideration the huge delay. In fact, it will not be out of place to mention here that though the Award was passed on 18.12.2014 till today the respondents have not got their amount and this is also the reason as to why the costs deserves to be imposed on the applicant.

Hence, following order.

ORDER

1 Application is hereby allowed.

2 The delay caused in filing First Appeal is hereby condoned subject to deposit of costs of Rs.500/- in each matter within a period of 15 days from today.

3 After the costs is deposited it be given to the respective respondents.

4 Registry to verify and register the First Appeal and place it for consideration on 05.08.2019.

(Smt. Vibha Kankanwadi, J.)

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