

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

29 CIVIL APPLICATION NO.655 OF 2018
IN FAST/28258/2017

WITH

CA/657/2018 IN FAST/28470/2017

WITH

CA/659/2018 IN FAST/28476/2017

WITH

CA/663/2018 IN FAST/28473/2017

WITH

CA/666/2018 IN FAST/28467/2017

THE EX. ENGINEER, MEDIUM PROJECT DIVISION, OSMANABAD AND ORS
VERSUS
DATTATRAYA BHANUDAS THORAT

...

Advocate for Applicants : Mr. Rajale Gulab B.
Advocate for Respondents : Adv. Tripathi h/f. Mr. Ghute Patil Kishor J.
Advocate for Respondents : Mr. A.R. Devakate

...

CORAM : MANGESH S. PATIL, J.

DATE : 17.12.2019

PER COURT :

Since already Mr. Ghute the learned advocate has filed vakalatnama on behalf of the sole respondent and learned advocate Mr. Devakate has not filed any vakalanama, name of Mr. Devakate shall be deleted from the cause list.

2. Heard both the sides.

3. The learned advocate for the appellant acquiring body submits

that in order to comply with the procedural formalities as per the settled practice, the time was spent for filing the appeal. The delay has occasioned *bona fide*. There was no ulterior motive. The reference court has granted exorbitant compensation without any basis and the gross illegality can only be corrected if the appeal is allowed to be registered by condoning the delay.

4. The learned advocate for the respondent claimant opposes the application. He submits that the delay has not been properly explained. The right accrued to the respondent claimant of getting the award executed would be defeated if the delay is condoned and the appeal is registered.

5. I have carefully gone through the papers. In the application it has been averred that the delay has occasioned because a legal adviser had to be consulted. The documents were solicited by him, which were provided to him and it is only after having a legal opinion and taking steps for arranging for payment of court fees. For all these reasons the delay has occasioned.

6. As aforementioned facts have gone unchallenged, one cannot dispute those. Bearing in mind the fact that the acquiring body carries a heavy burden to pay interest at a rate which is more than what is prevalent in the market, the appellant cannot be said to have gained anything by causing the delay. Each days delay would add to the heavy burden of paying interest.

7. Bearing in mind all these aspects, for the reasons mentioned in the application, the delay is condoned. Register the appeal. Issue notice to

the respondents after registration. Learned advocate Mr. Tripathi holding for Mr. Ghute waives service.

8. The appeal shall stand admitted.

9. Call record and proceedings.

(MANGESH S. PATIL, J.)

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