

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

**912 CIVIL APPLICATION NO.287 OF 2017
IN FAST/27916/2016**

TULSHIRAM RAGHUNATH NAVLE AND ANR
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...

WITH

CA/286/2017 IN FAST/30659/2016

WITH

CA/289/2017 IN FAST/27912/2016

WITH

CA/290/2017 IN FAST/27914/2016

...

Advocate for Applicants : Shri Vitthal B. Wayal
AGP for Respondents - State : Shri S.J.Salgare, Shri A.M.Phule

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CORAM : P.R.BORA, J.

DATE: 18th January, 2019

PER COURT:-

1 Heard learned Counsel for the applicants and learned AGP appearing for the respondent State.

2 Delay for the period ranging from 836 to 1272 days has occurred in filing these appeals by the applicants - claimants. It is the contention of the learned Counsel for the applicants - claimants that since the amount of compensation as was awarded by the Reference Court could not be received within the reasonable period, only after receiving the said amount, the

applicants could take the steps for filing the appeals seeking enhancement in the amount of compensation. The learned Counsel for the applicants – claimants submitted that substantial grounds are raised in exception to the impugned judgments and awards and as such opportunity needs to be given to the applicants – claimants to prosecute their appeals of merits. It is further contended by the learned Counsel for the applicants – claimants that the applicants will not claim interest of the period of delay in the event of their success in appeals.

3 The applications are opposed by learned Assistant Government Pleaders appearing for the respondent – State. It is submitted that the reasons, which are assigned cannot be considered while condoning the delay. It is further submitted that the huge delay of period ranging from 836 to 1272 days has not been appropriately explained and in the circumstances the applications deserve to be rejected.

4 I have considered the submissions advanced by the learned Counsel appearing for the applicants and learned Assistant Government Pleaders appearing for the respondent State. The reasons as are assigned by the applicants to justify the delay which has been caused in filing the present appeals by

them cannot be wholly rejected. Moreover, the applicants - claimants have undertaken not to claim any interest for the period of delay. In view of the fact that the delay caused does not appear to be intentional and the further fact that the applicants - claimants have themselves waived right to claim interest in the event of their success in the appeals, I am inclined to allow these applications. Hence, the following order:-

ORDER

- I) Applications are allowed.
- II) Delay caused in filing the appeals is condoned.
- III) Appeals be registered in accordance with law.
- IV) It is clarified that the applicants - claimants would not be entitled for the interest of the period of delay in the event of their success in appeals on the enhanced amount of compensation.
- V) Copy of the present order be kept in the papers of the appeals.
- VI) Civil Applications for condonation of delay stand disposed of.

(P.R.BORA)
JUDGE