

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.13174 OF 2018
IN
FAST/29865/2018

Umakant s/o Bhanudas Manwatkar (Died)
Through its Legal Heirs

1. Shalan wd/o Umakant Manwatkar,
Age 45 years, Occupation Household,
R/o Rani Wahegaon Tq. Partur Dist.
Jalna.
2. Bhagwat s/o Umakant Manwatkar,
Age 30 years, Occupation Agri.,
R/o As above.
3. Ramesh s/o Umakant Manwatkar,
Age 27 years, Occupation Agri.,
R/o As above.
4. Dinesh s/o Umakant Manwatkar,
Age 25 years, Occupation Lawyer,
R/o As above. ...Applicants.

VERSUS

1. Executive Engineer,
Nimna Dhudhana Project,
Selu Tq. Selu Dist. Parbhani.
2. The State of Maharashtra,
Through the Collector, Jalna.
3. The Special Land Acquisition Officer,
(M.I.D.) Jalna. ...Respondents.

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Mr. R. R. Randive, Advocate for applicants.
Mr. A. M. Phule, AGP for Respondents No.2 and 3.

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CORAM : SMT.VIBHA KANKANWADI, J.

**Date Of Reserving The Order :
14-06-2019.**

**Date Of Pronouncing The Order :
11-07-2019.**

ORDER :

1. Present application has been filed by the original claimants for getting delay of 3370 days condoned for filing first appeal.
2. The applicants have come with a case that, their land has been acquired for Nimna Dudhana Project. The said land was situated at Satona Tq. Partur Dist. Jalna. The Special Land Acquisition Officer had fixed the rate of compensation @ Rs.710/- per R. In all 3 H 37 R land was acquired from Gut No.56. Being aggrieved by the said award, they had made reference under Section 18 of the Land Acquisition Act bearing L.A.R. No.70 of 2002. Their reference came to be partly allowed. The reference Court has granted compensation @ of Rs.1200/- for dry land and Rs.30/- for barren i.e. Pot Kharab per R. They are still dissatisfied with the compensation that has been assessed by the reference Court, and therefore, want to challenge the same. The said Judgment and award has been passed by the reference Court on 06-04-2009, however there is delay of 3370 days in preferring first appeal. It is contended that, the applicants were not aware about the legal provisions. They are very poor persons. Their valuable rights are involved, and therefore they have prayed for condonation of delay.
3. The application has been objected by the respondents on the ground that the huge, inordinate delay has not been properly explained by giving account of day to day.
4. Heard learned advocate Mr. S. S. Randive for applicants and learned AGP Mr. A. M. Phule for respondents No.2 and 3. Though respondent No.1 was served, remained absent. It will not be out of place to mention here that, both of them have made submissions supporting their respective contentions.

5. The original claimants have prayed that the delay of 3370 days be condoned. Naturally the said delay is huge and inordinate. The only fact that is required to be considered as to whether the grounds stated by the applicants is reasonable or not. While condoning the delay, the Courts are required to be liberal. This fact has been reiterated by Hon'ble Apex Court recently in *Hemlata Verma Versus M/s. ICICI Prudential Life Insurance Co. Ltd. and Anr.*, (Civil Appeal No. 5131 of 2019, decided on 01-07-2019). Reliance was placed on, *Collector Land Acquisition, Anantnag and Anr. Versus Mst. Katiji and Ors.*, reported in (1987) 2 SCC 107.

6. Further in the case in hand the land belonging to the claimants to the extent of 3 H 37 R has been acquired which was the source of income for them. Under such circumstance, they were justified in saying that, since they are poor and could not make arrangement towards the financial requirements in order to file appeal, has to be considered as a reasonable and sufficient ground to condone the delay. Hence, following order.

ORDER

- i) Application is hereby allowed.
- ii) The delay is hereby condoned.
- iii) However, it is made very clear that, the present applicants are not entitled to get interest for 3370 days in case their appeal is allowed for enhancement in the compensation.
- iv) Registry to verify and register the first appeal and place it for consideration on 16-09-2019.
- v) Application stands disposed of accordingly.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.