

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

**948 CIVIL APPLICATION NO.15256 OF 2017
IN FAST/30867/2017**

SHIVAJI RANGRAO PATIL

.. Applicant

VERSUS

THE STATE OF MAHARASHTRA AND ORS

..Respondents

...

Advocate for Applicant : Shri Santosh B. Gastgar

AGP for Respondents : Shri S.J. Salgare

...

CORAM : P.R. BORA, J.

Dated: February 05, 2019

PER COURT :

1. Heard the learned Counsel appearing for the respective parties. Delay of 2605 days has occurred in filing the appeal by the applicant. The learned Counsel submitted that, since the amount of compensation as was enhanced by the Reference Court was also not paid within time by the State, the applicant - appellant could not take the further steps for filing the appeal. The learned Counsel further submitted that, in the meanwhile period, it is revealed that, in the matters arising out of the same acquisition, the Reference Court which decided connected appeals has awarded the compensation on higher side i.e. at the rate of Rs.5000/- per *Are*. Learned Counsel submitted that, in the circumstances, opportunity needs to be given to the

present applicant to prosecute his appeal on merits. Learned Counsel has placed reliance on the Judgment of the Hon'ble Apex Court in the case of **Dhiraj Singh Vs. Haryana State & Others, 2014 (14) SCC 127**. The learned Counsel further submitted that, the applicant is ready to waive the right of getting interest of the period of delay in the event of his success in appeal.

2. Learned AGP Shri Salgare has resisted the submissions made on behalf of the applicant. The learned AGP submitted that, the huge delay has not been appropriately explained. The learned AGP, therefore, prayed for dismissal of the application.

3. After having considered the submissions as are made by the learned Counsel appearing for the parties and in view of the observations made by the Hon'ble Apex Court in the case of **Dhiraj Singh Vs. Haryana State & Others** (cited supra) relied upon by the learned Counsel for the applicant, the delay occasioned in filing the appeal deserves to be condoned. Moreover, the applicant has undertaken not to claim the interest

for the period of delay in the event of his success in appeal. In view of the above, the following order is passed.

ORDER

(i) The delay caused in filing the appeal is condoned. Appeal be registered in accordance with law. Civil Application stands disposed of.

(ii) On registration of the appeal, issue notice to the respondents. AGP Shri Salgare waives notice for respondents. Service complete.

(iii) It is clarified that, the applicant shall not be entitled for the interest of the period of delay in the event of his success in appeal on the enhanced amount of compensation.

(iv) Copy of the present order be kept along with the papers of appeal.

4. List the appeal for further consideration after six weeks.

5. Call for record and proceedings.

(PR. BORA, J.)