

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

31 CIVIL APPLICATION NO.2882 OF 2018
IN FAST/33092/2017

VINITA GOVINDRAO PURNE
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...
Advocate for Applicant : Mr. V.V. Kabade
AGP for Respondents: Mr. P.M. Kulkarni

...
CORAM : P.R. BORA, J.
Date: January 21, 2019

...

PER COURT :-

1 Heard learned counsel appearing for the applicant and learned AGP appearing for the respondent State.

2 The delay of 2155 days has occurred in filing the present appeal by the original claimant. The learned counsel for the applicant submitted that the applicant, being a lady and facing financial difficulties, could not approach this Court earlier and the delay has therefore, occasioned in filing the appeal. The learned counsel pointed out that for the lands acquired from village Sastur during similar period for some different project, the concerned agriculturists have received compensation at the rate of Rs.17/- per sq. foot and the same order has been confirmed by the High Court. The learned counsel submitted that the said position so also the decision of the High Court in the said matter in FA No.410/98 are referred by the Reference Court in LAR No.146/93 . Both were placed on record by the applicant. However, they were not properly considered by the Reference Court. In the

circumstances, learned counsel prayed for condoning the delay.

3 Mr. P.M. Kulkarni, learned AGP opposed the request so made on behalf of the applicant. Learned AGP submitted that the huge delay of more than six years is not properly explained by the applicant and the reasons which are assigned cannot be considered for condoning the delay. In the alternative, learned AGP submitted that if at all the Court inclines to condone the delay, the burden of payment of interest for the period of delay shall not be saddled on the State.

4 I have given due consideration to the submissions made by the learned counsel appearing for the applicant and the learned AGP.

5 On perusal of the Judgment, it is quite evident from the sale instances placed on record by the appellant - applicant that for the lands acquired of village Sastur for a different project during the same period, the compensation awarded to the agriculturists is much higher than the rate which has been awarded to the applicant in the present matter. In the circumstances, I am inclined to allow the present application. The alternate submission made by learned AGP that the State may not be saddled with the interest for the period of delay in the event of applicant's success in the appeal, also deserves to be considered. In view of above, following order is passed:-

ORDER

(I) Application is allowed.

- (II) The delay of 2155 days occurred in filing the appeal is condoned.
- (III) Civil Application No.2882 of 2018 stands disposed of.
- (IV) Appeal be registered in accordance with law.
- (V) After registration of appeal, issue notice to respondents. Mr. P.M. Kulkarni, learned AGP waives notice on behalf of respondents. Service complete.
- (VI) List the appeal for further consideration on 4.3.2019.
- (VII) It is made clear that in the event of success in appeal, the applicant shall not be entitled for the interest on the enhanced amount of compensation for the period of delay.
- (VIII) Copy of the present order be kept in papers of appeal.
- (IX) R & P be called.

(P.R. BORA, J.)

vbd