

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.14683 OF 2018
IN
FIRST APPEAL (ST.) NO.34936 OF 2018
(The State of Maharashtra and another Vs. Sheshrao Lingappa Dudhbhate
(Died) through L.Rs. Pushpa and others)
AND
CIVIL APPLICATION NO.14681 OF 2018
IN
FIRST APPEAL (ST.) NO.34905 OF 2018
(The State of Maharashtra and others Vs. Manik Rama Gurav)
AND
CIVIL APPLICATION NO.14685 OF 2018
IN
FIRST APPEAL (ST.) NO.34932 OF 2018
(The State of Maharashtra and others Vs. Dnyanoba Raghu Babar)

Mr. S.N. Morampalle, A.G.P. for the applicants/State
Mr. V.V. Ingale, Advocate for the respondents

CORAM : MANGESH S. PATIL, J.

DATE : 13.12.2019

PER COURT :

Heard both sides.

2. These are the applications by the State for condonation of delay in filing appeals against the judgment and award passed by the Reference Court under Section 18 of the Land Acquisition Act. The delay is of **2990** days in all these matters.

3. The learned A.G.P. submits that time was spent for taking a

call as to if the appeals were to be preferred, by following the settled practice of approaching the A.G.P for legal opinion and then making a proposal to the Law and Judiciary Department. Soon after the decision was taken, certified copies were applied for. Those were received in the year 2016 and after spending some time for making preparations of drafting and arrangement of court fees, it took further time before the appeal was filed. There were no mala fides. The State has been carrying a heavy burden to pay interest. Therefore, it was not to gain anything by not preferring the appeal. The Court should approach the issue in the light of the decision in the case of ***Collector, Land Acquisition, Anantnag & Anr. Vs. Mst. Katiji & Ors. AIR 1987 SC 1353.*** No hyper technical view is expected to be taken. The delay has occasioned bona fide and may be condoned .

4. The learned A.G.P would further submit that the Reference Court has awarded exorbitant compensation putting unnecessary burden on the public exchequer. The Special Land Acquisition Officer had awarded compensation at the rate of Rs.15,500/- per Hecter which has been increased by the Reference Court more than five times. The illegality will go uncorrected if the appeals are not allowed to be filed.

5. The learned Advocate for the respondents/claimants opposes the applications. He submits that the delay is enormous and has not been even attempted to be explained. The question of illegality in the order of the Reference Court is not relevant. In spite of having obtained stay subject to the

condition of depositing the entire amount of the award, the condition has not been obeyed for last more than a year and this is nothing but a mala fide attempt to protract execution of the impugned award.

6. Accepting the averments in the applications at their face value together with the submissions of the learned A.G.P., it is quite apparent that it took about six years for the appellant just to ponder upon and take a decision to prefer the appeals. Interestingly, it has been mentioned in the applications that it is only after the decision was taken that the application for obtaining certified copies of the award was moved. It is not clear as to how if the certified copies were not at all obtained, the decision was to be taken for preferring the appeals. Be that as it may, even according to the State, a period of six years was spent in taking the decision to prefer the appeals.

7. Assuming that this delay is natural, still, it is not clear as to why it took another couple of years to file the appeals. The applications are certainly vague. There is no proper explanation rather none at all as to why a period of six years was required for taking a decision to prefer the appeals. The period of delay is not short one. It was expected of the State to make an attempt to explain as to how this period of six years was spent.

8. It is trite that the State machinery does not have any privilege or special considerations vis-a-vis applications for condonation of delay. It is true that meritorious claims cannot be allowed to be defeated by taking a

pedantic view. It is also true that shutting the doors at the threshold by refusing to condone the delay may in some cases perpetuate the illegalities committed by the lower courts. However, all these, in my considered view, are only peripheral considerations. The core issue is as to if there is a reasonable explanation which would enable the Court to condone the delay. In my considered view, in these matters, there is none.

9. The decision in the case of ***Collector, Land Acquisition, Anantnag & Anr. Vs. Mst. Katiji & Ors.*** (supra), does lay down the factors which should weigh with a Court while considering the applications for condonation of delay. Apparently, absence of mala fides or ulterior motive and the fact that the appellant is not to gain anything by making his right to prefer an appeal get barred by limitation, are some of these considerations. However, even bearing in mind these considerations, the present matters, in my considered view, for the reasons mentioned hereinabove, do not make out sufficient ground for condoning the delay.

10. The upshot of the discussion is that though it may appear harsh, for want of sufficient cause, the delay cannot be condoned. The applications are rejected.

11. Consequently, all pending Civil Applications are disposed of.

[MANGESH S. PATIL]
JUDGE

