

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

960 CIVIL APPLICATION NO.5359 OF 2018
IN FAST/39530/2017

WITH

CA/5360/2018 IN FAST/39530/2017

THE STATE OF MAHARASHTRA AND ANR
VERSUS

SHIVABA PANDURANG PATIL

...

Advocate for Applicants : Mr. AM Phule, AGP
Smt. Swati P. More (Nade), Adv. For R/sole.

CORAM : P.R. BORA, J.

DATED : 20th February, 2019.

PER COURT:-

1. Heard learned AGP Phule for State and
Smt. SP More, learned counsel for sole respondent.

2. Delay of 1954 days has occurred in filing
the appeal by the State. The reasons are explained
in paras 3 to 5 of the application.

3. Learned Counsel for sole respondent
opposed for condoning the delay.

4. After having considered the submissions
and after having gone through the reasons, as are
assigned in the application, it appears to me that
an opportunity needs to be given to the State to

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prosecute its appeal on merits. In the circumstances, The delay caused in filing the appeal is condoned. Appeal be registered in accordance with law. CA for condonation of delay stands disposed of. On registration of the appeal, issue notice to respondent, Advocate More waives service for sole respondent. Service complete.

5. With the consent of the parties, the appeal is taken up for final disposal at admission stage.

6. The State has preferred the present appeal aggrieved by the judgment and award passed by the court of Civil Judge, Senior Division, at Latur in LAR No.440/2003 decided on 28th March, 2012. The land belonging to the respondent was acquired for construction of Ring road starting from Latur to Barshi State High way from village Khatgaon. Notification under Section 4 of the Land Acquisition Act, 1894 (herein after referred to as the Act) in that regard was published in the Official Gazette on 23.11.1995. An Award under Section 11 of the Act was passed on 6th July, 2000.

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The Special Land Acquisition Officer had offered the compensation @ Rs.3,850/- per Are; whereas in the Reference Application, the Reference court has enhanced it to Rs.11,550/- per Are. Aggrieved by, as stated herein above, the State has preferred the present appeal.

7. After having heard the learned AGP appearing for the appellant – State and learned counsel for the respondent, and on going through the impugned judgment, it appears to me that there may not be any scope for causing any interference in the impugned judgment and award so passed for two reasons, i) that, the land acquired is only admeasuring 4 Ares and ii) the compensation, as has been enhanced by the Reference Court is within four times of the compensation offered by the SLAO. Moreover, after having gone through the judgment, it does not appear to me that the Reference court has arbitrarily enhanced the market value as has been alleged by the State in the present appeal. On the contrary, the Reference Court has passed a well-reasoned order considering the evidence on record. In the circumstances, it does not appear

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to me that there is any merit in the present appeal. Hence, the following order, -

ORDER

. The appeal is dismissed, however, without any order as to costs. Pending civil application, if any, stands disposed of.

(P.R. BORA)
JUDGE

bdv