

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

943 CIVIL APPLICATION NO.10367 OF 2018
IN FAST/41237/2017

WITH
CA/1859/2018 IN FAST/41237/2017
WITH
CA/1860/2018 IN FAST/41237/2017

THE EX. ENGINEER, MINOR IRRIGATION DIVISION
OSMANABADTHR MOHAN B KADE AND ANR
VERSUS
HARIBA DEVRAO MANE (DIED) THR LRS NARAYAN AND ORS

...
Advocate for Applicants : Mr. Arora Shyam C.;
Mr. HP Bondar, Adv. For Resp.Nos. 2 & 3.

CORAM : P.R. BORA, J.
DATED : 7th February, 2019.

PER COURT:-

1. For the reasons stated in the application, CA No.10367/2018 moved for bringing the legal heirs of deceased Respondent Nos. 1 & 4 is allowed. The legal heirs of the concerned respondents as are mentioned in the application be taken on record. Necessary amendment be carried out within two weeks. Delay caused in filing the application is condoned. Abatement, if any, stands set aside.

2. Heard CA for delay. Shri Bondar, learned counsel, submits that he has instructions to appear on behalf of legal heirs of Respondent Nos. 1 and 4. Service complete.

3. Delay of 1673 days has occurred in filing the appeal by the acquiring body. It is the contention in the application that in making procedural compliances, the delay has occasioned and that is the main reason that the appeal could not be filed within stipulated period of limitation. The learned counsel submitted that when the SLAO had offered the compensation @ Rs.205/- per Are, the Reference Court has enhanced it to Rs. 1843/- per Are. The learned counsel submitted that the Reference Court has arbitrarily enhanced the amount of compensation. The learned counsel further submitted that substantial grounds are raised in exception to the impugned Judgment and Award and as such, an opportunity needs to be given to the acquiring body to prosecute its appeal on merits.

4. Shri Bondar, learned counsel appearing for the respondents-claimants has strongly opposed for condoning the delay, stating that huge delay of more than four years, has not been properly explained by the acquiring body. The learned counsel further submitted that in absence of any cogent reason put forth by the acquiring body, the

delay cannot be condoned. He, therefore, prayed for rejecting the application.

5. I have considered the submissions made by the learned counsel appearing for the respective parties. It is true that the delay caused is of huge period, however, it appears that the delay has been caused because of negligence on part of the officers concerned dealing with the matter. However, it cannot be ignored that ultimately public money is involved. Prima facie case appears to have been made out by the appellants since the amount of compensation has been enhanced by many times than the amount offered by the Special Land Acquisition Officer. In the circumstances and more particularly having regard to the fact that public money is involved, I am inclined to allow the present application. Hence, the following order, -

ORDER

- i. The delay caused in filing the appeal is condoned. The CA for condonation of delay is disposed of. The appeal be registered in accordance with law
- ii. On registration of the appeal, issue notice to the respondents. Learned counsel Shri Bondar waives notice for the respondents. Service complete

(4)

6. In view of the fact that the acquiring body has deposited the entire amount of compensation, as was directed by this Court, the interim stay granted earlier on 16th March, 2018 is made absolute. CA for stay disposed of.

7. Call R and P.

8. List the matter for further consideration after six weeks.

(P.R. BORA)
JUDGE

bdv