

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1122 OF 2018
WITH
FIRST APPEAL (ST) NO. 15380 OF 2017
WITH
CIVIL APPLICATION NO. 1123 OF 2018

The State of Maharashtra ... Applicant
V/s.
Giridharilal R. Soni & Ors. ... Respondents

Ms. Tanaya Goswami, AGP for the Applicant.
Mr. Anand Kulkarni I/b M.R. Deshpande for Respondent Nos. 2A
and 2B.

CORAM: K.K.TATED, J.
DATED : 23/09/2019

P.C.

1 Heard learned AGP for the Applicant.

2 By this Civil Application, Applicant State of Maharashtra is seeking condonation of 530 days delay in filing First Appeal challenging the judgment and award dated 24.08.2015 passed by the Joint Civil Judge, Senior Division, Solapur in LAR No. 45 of 1999.

3 The learned AGP for the Applicant submits that in the present proceeding the Judgment and Award passed by the Reference Court on 24.08.2015, they immediately applied for certified copy on 22.07.2016 and same was ready and collected on 03.08.2016. She submits that before filing First Appeal, it is

duty of the District Government Pleader to forward his opinion to the Law & Judiciary Department, if the matter is required to be filed in the High Court. She submits that before filing First Appeal on behalf of State of Maharashtra, they have to take approval from several departments. She submits that they have good chance of success in the matter. She submits that in the interest of justice, this Hon'ble Court be pleased to condone the delay and matter be heard on its own merits.

4 On the other hand, the learned Counsel for the Respondent Nos. 2A and 2B vehemently opposed the present application. He submits that Applicant has failed to disclose the sufficient cause for inordinate delay of 530 days in filing First Appeal. Hence, there is no substance in the present Civil Application and same is required to be dismissed with costs.

6 I heard both the sides at length. It is to be noted that in the present proceeding, the Special Land Acquisition Officer issued notification under Section 4 of the Land Acquisition Act dated 26.12.1996 for acquiring Respondent's land from South Sadar Bazar, Solapur for the purpose of road widening in between Soni Chowk to Maulali Chowk in Sadar Bazar, at Solapur. After following due process of law, the Special Land Acquisition Officer declared Award and awarded sum of Rs.43,774/- towards the acquired land.

7 Being aggrieved by the said award, the Respondent preferred Reference under Section 18 of the L.A. Act. The Reference Court by impugned Judgment and Award dated

24.08.2015 held that the Respondent Claimant is entitled to Rs. 35,848/- way of additional compensation in respect of the acquired land, which is meager amount.

8 It is to be noted that though the impugned Judgment and Award passed by the Reference Court on 24.08.2015, the Applicant applied for certified copy on 22.07.2016 i.e. after 11 months delay. In the entire Civil Application, there is no explanation why there was delay in applying for certified copy of the Judgment and Award. Apart from that, there is a delay of 530 days in filing First Appeal.

9 Bare reading of Civil Application shows that there is a delay on part of Applicant, for filing First Appeal, because the file was circulated from one department to other department for the sanction. Movement of the file from one Department to other Department, cannot be a good ground for condonation of inordinate delay.

10 It is to be noted that this court in the matter of **Special Land Acquisition Officer & Anr. Vs. Jose Prazeres de Piedade Pinto 2006(2) BCR 773** held that the delay caused because of movement of file from one table to another cannot be considered as a good ground for condonation of delay. Para 12 of the said judgment reads thus:

12. The delay merely because it has occasioned in a matter relating to land acquisition case involving public money, condonation thereof cannot be construed as a matter of right to the Government. In case of delay, it is necessary for the

Government machinery to furnish the necessary satisfactory explanation for such delay. In case the delay has occurred on account of either wilful acts on the part of the concerned officer/ s or for any other reason, which could even defeat the rights of the Government or the acquiring body in relation to the provision for appeal against the award passed by the Reference Court, the mere statements regarding the movement of the file from one office to the other office, from one table to the other table cannot be construed as satisfactory explanation for the delay in filing the appeal. In the case in hand, as already observed above, merely stating that the file moved from one office to another, either for opinion or for preparation of financial report, no explanation has been placed on record as to why it took particular number of days for obtaining either the opinion of the Law Department or for preparing the financial implication report by the Executive Engineer. It apparently discloses total failure on the part of the applicants in explaining the cause for the delay of 281 days in filing the appeal as well as 51 days' delay in filing the application for condonation of delay.

11 The apex court in the matter of **Office of the Chief Post Master General & Ors. Vs. Living Media India Ltd. & Anr. 2012 ALL SCR 892** held that the delay attributable to impersonal machinery and bureaucratic methodology cannot be a ground for condonation of delay. Para 13 of the said judgment reads thus:

“13. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be

swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.”

12 In view of the above mentioned facts and the law declared by this court as well as the apex court, I do not find any substance in the Civil Application.

13 Hence, following order is passed:

a) Civil Application for condonation of delay stands rejected.

b) Registration of the First Appeal stands rejected.

c) In view of the dismissal of the Civil Application for condonation of delay, the Civil Application for stay stands rejected as infructuous.

b) No order as to costs.

(K.K.TATED, J.)