

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL JURISDICTION
CIVIL APPLICATION NO.2122 OF 2009
IN
FIRST APPEAL (ST) NO. 12134 OF 2006
WIH
CIVIL APPLICATION NO. 394 OF 2017

The State of Maharashtra and Ors. .. Applicants

Versus

Padmini Sudhakar Patil and Ors. .. Respondents

...

Ms.Tanaya Goswami, AGP for State/Applicant.

...

CORAM: BHARATI DANGRE, J.

DATED : 30th AUGUST, 2019.

P.C:-

1. Civil Application No. 2122/2009 seek restoration of the First Appeal which was dismissed by the Registrar (Judicial -I) by his order dated 5th May, 2006, on the ground of non-payment of deficit Court fee. The learned AGP would submit that the award dated 2nd June, 2000 passed by the Special Land Acquisition Officer came to be challenged by making reference u/s. 18 and Reference Court enhanced the compensation, which is

challenged in the present First Appeal.

2. Perusal of the record discloses that the Registrar passed the conditional order on 5th June, 2006 and granted 14 days to pay the deficit Court fee to the office of Government Pleader. Learned AGP communicated this order on 5th June, 2006 to the Special Land Acquisition Officer. However, since the acquiring body did not make necessary arrangement for payment of Court fee, therefore, delay has occasioned. The amount of Rs. 11,000/- towards Court fee was deposited on 16th June, 2008.

3. It is admitted fact that there is delay in payment of Court fee but it is sought to be justified on the ground that it was on the count that the amount was not received from the acquiring body and in such circumstances, claim of the Government should not be defeated and it is expedient in the interest of justice to set aside the dismissal of the First Appeal and particular, when the amount of deficit Court fee has been deposited in the year 2008. In such circumstances, the delay occasioned in filing the application for restoration is sufficiently explained and so also non-compliance of the order passed by the Registrar (Judicial-I).

4. In light of the aforesaid facts and circumstances of the case, I allow the Civil Application No. 2122/2009 in terms of prayer clauses (a) and (b). Registry is directed to register the First

Appeal and upon registration of the same, issue notice to the respondents, returnable after 6 weeks.

SMT. BHARATI DANGRE, J.