

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.4409 OF 2014
IN
FIRST APPEAL (ST.) 7244 OF 2011
WITH
CIVIL APPLICATION NO.1297 OF 2015**

The State of Maharashtra and Ors. .. Applicants

VS.

GaneshNaganath Zade and Anr. .. Respondents

Ms.Tanaya Goswami, A.G.P. for the State

**CORAM : K. K. TATED, J
DATE : AUGUST 20, 2019**

P.C.:

. Heard the learned A.G.P. for the Applicant.

2 By this Civil Application, Applicant is seeking condonation of 50 days delay in filing First Appeal challenging the judgment and award dated 28.9.2010 passed by learned Civil Judge, Senior Division, Barshi, Dist. Solapur in L.A.R. No.798 of 2002.

3 The learned A.G.P. submits that before filing any appeal, they have to take approval from several departments. Hence, there is a delay in filing First Appeal before this court. In support of this contention, the learned A.G.P. for the Applicant relies on paragraph 2 of the Civil Application.

4 The learned A.G.P. submits that in the interest of Justice, this Hon'ble court be pleased to condone the delay and decide the matter on its own merits. She submits that they have good chance of success in the present matter.

5 It is to be noted that in the present proceeding, Special Land Acquisition Officer issued notification 4 of the Land Acquisition Act for acquiring Respondent original Claimant's land bearing Gut No.283 admeasuring 0.78R land situated at Village Bavi (Agalwe), Tal. Barshi, District Solapur for Pimpalgaon Dhale Medium Project. After following due process of law, Special Land Acquisition Officer declared award under section 11 of the said Act and awarded compensation of Rs.45,398/- to the Respondent original Claimants.

6 Being aggrieved by the said Award, Respondent original Claimant preferred reference under section 18 of the Land Acquisition Act and claimed additional compensation of Rs.250,000/-. Reference Court on the basis of previous judgments in Land Acquisition Reference No.797 of 2002 held that Respondents original Claimants are entitled additional compensation in respect of acquired land to the tune of Rs.24,960/-.

7 It is to be noted that Reference Court in paragraph 13 of the impugned Judgment specifically recorded that in L.A.R. No.794 of 2002 and 797 of 2002, lands were acquired from the same village and for the same purpose. Paragraph 13 of the impugned judgment reads thus:

“13. Petitioner has only placed reliance on previous Judgment passed by this Court n LA.R. No. 794/02 and 797/02. I have carefully gone through the judgment. It is crystal clear that the acquired land under this petition and the previous decided petition are from village Bavi. Both lands have been acquired for Pimpalgaon Dhale Medium Project under file L.A.Q./S.R.No.26/96, Both lands appears to be in close vicinity and acquired for same project Judgment delivered by this Court in L.A.R. No. 794/02 and 797/02 appears to be good piece of evidence. For this case, "State of purpose I place my reliance on Maharashtra v/s. Shankar Kondiba Bitke, reported in 2003 vol. 105 (4), Bombay Law Reporter at page 504. There Lordship has been ruled out that one the court determine the market value of acquired land under reference that would be a probable market value and evidence taken into consideration to subsequent Proceedings u/s. 43 and 11 of Indian Evidence Act provided in that the land acquired in previous decided proceeding and the subject matter before the court should be acquired for one and the

same project, from the same vicinity and from the same village, I conclude that the previous judgment referred by respondent appears to be relevant as laid down u/s. 43 and 11 of Indian Evidence Act."

8 Considering these facts and the meagre amount awarded by Reference Court, I am of the opinion that it is not necessary to entertain the present Civil Application.

9 It is to be noted that Apex Court in the matter of **Airports Authority of India vs. Satyagopal Roy and Others**¹ held that considering the small amount of compensation awarded to the claimant, there is no question of interference in the order passed by court below. Paragraph 15 and 16 of the said judgment reads thus:

"15. However, it is true that this Court in State of Madras v. Rev. Brother Joseph [AIR 1973 SC 2463] refused to interfere with the award on the ground that the compensation awarded was meager. Similarly, in Special Land Acquisition Officer, Malaprabha Dam Project, Saundatti and Others v. Madivalappa Basalingappa Melavanki and Others [(1995) 5 SCC 670], this Court refused to interfere where compensation was determined on the basis of annual yield of agricultural land by application of 15 years' multiplier on the ground that the small area of land was acquired and approved the order of the High Court in which it was observed that "it is hardly appropriate to interfere with the award notwithstanding the discernible blemish pointed out by the learned Government Pleader" and also held thus:

1 (2002) 3 SCC 527

"However, it would not operate as a precedent to any future case or other cases arising from the same notification. All cases need to be decided applying only 10 years' multiplier."

16. *In the present case also, considering the small amount of compensation awarded to the claimants, we do not think that this would be a fit case for interference in this appeal. Hence, the appeal is dismissed with no order as to costs."*

10 Considering the meagre amount awarded by the Reference Court and the law declared by the Apex Court in the matter of **Airports Authority of India vs. Satyagopal Roy and Others** (Supra), there is no substance in the present First Appeal. Hence, following order is passed

- a. Civil Application stands rejected.
- b. In view thereof First Appeal (St.) No.7244 of 2011 and Civil Application No.1297 of 2015 do not survive.
- c. Registration of First Appeal stands rejected.
- d. Civil Application for stay stands dismissed as infructuous.
- e. No order as to costs.

(K.K.TATED, J.)