

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL JURISDICTION
CIVIL APPLICATION NO. 3667 OF 2017
IN
REJECTED CLAIM NO. 134 OF 2015

Mr. Nivrutti Muralidhar Dhande and Ors. .. Applicants

Versus

Special Land Acquisition Officer .. Respondent

...

None for the Applicants.

Ms. Tanaya Goswami, AGP for the Respondent/State.

CORAM: BHARATI DANGRE, J.

DATED : 30th AUGUST, 2019.

P.C:-

1. Civil Application No. 3667/2017 is taken out seeking condonation of delay of 184 days in restoring the Civil Application, which came to be dismissed on 7th November, 2014 by the learned Registrar (Judicial-II) on account of non-payment of deficit Court fee. The applicants have filed the First Appeal, challenging the judgment and decree dated 31st January, 2014 passed by the Special Land Acquisition Officer, Nashik in L.A.R. No. 28/2009. It is admitted in the application that the part payment of the Court fee was made and application was filed seeking time to deposit deficit Court fee and conditional order came to be passed. On failure to do so, the appeal came to be dismissed.

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2. The applicants have cited reasons for not depositing the Court fee and attributed it to the Government by stating that since the Government did not pay compensation, therefore, applicants were unable to pay court fees. However, at subsequent point of time, the compensation was paid and applicants were willing to deposit the deficit Court fee. In such circumstances, it is prayed that the order of dismissal be set aside and applicants have shown their readiness and willingness to deposit Court fee.

3. I have perused the said application, which is opposed by the State Government. On perusal of the application, it appears that the reason cited for setting aside the dismissal on account of deficit Court fee appears to be genuine and bonafide and since the First Appeal involves the substantial point, I am inclined to allow the Civil Application No. 3667/2017. Accordingly, Civil Application No. 3667/2017 is allowed in terms of prayer clause (a).

4. Order passed by the Registrar (Judicial-II) dated 7th November, 2014 is set aside. First Appeal is restored to file and permission is granted to the applicants to deposit the deficit Court fee as pointed out by the Registry, same should be done within a period of 6 weeks from today. Subject to the deposit of said Court fee, First Appeal stands restored to the file.

SMT. BHARATI DANGRE, J.