

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.1779/2013
with
First Appeal (ST) No.19108/2009
with
Civil Application No.1413/2018

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
---	----------------------------

Mr. A. R. Patil, AGP for the Applicant
Mr. Umesh Kurund for the Respondent

CORAM: K.K.TATED, J.
DATED : AUGUST 13, 2019

P.C.

1 Heard. By this Civil Application, the Applicant State of Maharashtra is seeking condonation of 3 years and 157 days delay in filing the First Appeal challenging the judgment and award dated 02.12.2005 passed by the Civil Judge, Senior Division, Barshi, Dist. Solapur in LAR No.726/2002 holding that the Respondent-Claimant is entitled to additional compensation of Rs.1,34,248.75 for 2H 54.5R land from village Bavi, Tq. Barshi, Dist. Solapur for Pimpalgaon Dhale Medium Irrigation Project.

2 The learned AGP for the Applicant

submits that it remained on the part of the acquiring body to deposit the requisite amount of payment of court fees. Hence, there is delay in filing the First Appeal. He submits that they have good chance of success in the matter. He submits that in the interest of justice, this Hon'ble Court be pleased to condone the delay in filing the First Appeal. He submits that if delay is not condoned irreparable loss will be caused to them.

3 On the other hand, the learned counsel for the Respondent-Claimant has vehemently opposed the Civil Application. He submits that the Applicant has failed to show any sufficient cause for condonation of more than 3 years and 157 days delay in filing the First Appeal. He submits that in the present proceedings the Reference Court has passed the judgment and award dated 02.12.2005. Thereafter the Applicant has filed the present First Appeal before this court in the month of August 2009. He submits that the main reason for the delay on the part of the Applicant is for want of amount for payment of court fees. He submits that, that cannot be a ground for condonation

of inordinate delay of more than three years.

4 The learned counsel for the Respondent submits that in the present proceedings the SLAO issued Notification u/s.4 of the Land Acquisition Act, 1894 on 23.10.1997 for acquiring the said land from Respondent-Claimant. He submits that the SLAO declared the award on 02.06.2000 and awarded sum of Rs.1,82,833/- by way of compensation. He submits that being aggrieved by the said Award the claimant filed Reference u/s.18 of the said Act. He submits that the Reference Court, after considering the sale instance on record as well as the previous judgment in the land acquisition matters from the same area, held that the claimants are entitled to compensation of Rs.1 lac per hector. He submits that the First Appeal No.1512/2009 filed by the State of Maharashtra in respect of the acquired land for the same project by Notification u/s.4 of the said Act was dismissed on 23.03.2010 by this court. He has placed on record a copy of the said order. Same is taken on record and marked "X" for identification.

5 The learned counsel for the Respondent-Claimant submits that as the Applicant has failed to disclose sufficient cause for condonation of delay and the First Appeal No.1512/2009 is decided by this court on merit arising from the said acquisition proceedings, for same project, there is no substance in the Civil Application. Same is liable to be dismissed with costs.

6 It is to be noted that the Applicant has failed to disclose sufficient cause for condonation of more than 3 years and 157 days delay in filing the First Appeal.

7 Apart from that in respect of the acquisition from the same area, the State of Maharashtra had filed First Appeal No.1512/2009 which was dismissed by this court by order dated 23.03.2010 (Coram : J. P. Devadhar,J., as he then was).

8 Considering these facts, I do not find any substance in the Civil Application.

9 Hence, following order is passed:

- a. The Civil Application stands dismissed.
- b. In view thereof, the registration of the First Appeal stands rejected.
- c. Consequently, the Civil Application for stay, stands dismissed as infructuous.
- d. No order as to costs.

(K.K.TATED, J.)