

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 1777 OF 2013
IN
FIRST APPEAL STAMP NO. 19296 OF 2009

The State of Maharashtra and ors.	.. Applicants
Vs.	
Surendra Vithal Kulkarni	.. Respondent

Ms.Tanaya Goswami, AGP for State.

CORAM : K.K.TATED, J.

DATE : 20th AUGUST, 2019

P.C. :

. Heard learned AGP for the applicants.

2. By this Civil Application, applicants are seeking condonation of 4 years and 212 days delay in filing First Appeal challenging Judgment and Award dated 05/12/2005 passed by learned Civil Judge, Senior Division, Barshi in Land Acquisition Reference No.544 of 2002.

3. Learned AGP for applicants submits that since the impugned order passed by the Reference Court, Assistant Government Pleader had to forward his opinion to the Legal Affairs, Law and Judiciary Department, Mantralaya for preferring the First Appeal before this Court. She submits that Law and Judiciary Department forwarded the papers to the Assistant Government Pleader, Solapur. She submits that on receipt of opinion of the Assistant Government Pleader, Solapur, the papers were forwarded to the concerned department for approval on 21/07/2006. Thereafter Government issued Resolution on 18/08/2006 for filing First Appeal before this Court. She submits that papers were received in the office of Government Pleader, High Court, (A.S.), Mumbai on 21/08/2006. Thereafter, office of Government Pleader called upon the officers to provide the certified copy of the impugned judgment and award along with payment of court fees. She submits that in this process, there is delay in filing First Appeal in this Court. She submits that they have good chance of success in the present matter. She submits that if delay is not

condoned, irreparable loss will be caused to them. She submits that this Hon'ble High Court be pleased to condone the delay and the matter to be heard on its own merits.

4. It is to be noted that in the present proceedings, Special Land Acquisition Officer issued notification under Section 4 of the Land Acquisition Act (hereinafter referred to as 'said Act') on 23/10/1997 for acquiring respondent – original applicant's land from Village – Bavi, Taluka – Barshi, District – Solapur for the purpose of Pimpalgaon Dhale Medium Irrigation Project. After following due process of law, Special Land Acquisition Officer declared award and awarded compensation in respect of acquiring land @ Rs.1,34,500/- per hectare. Being aggrieved by the said award, the respondent – original claimant preferred reference under Section 18 of the said Act and reference court awarded additional compensation in respect of acquired land @ Rs. 4 lack per hectare. The Reference Court considered the evidence on record and held that respondent – claimant is entitled to the additional compensation in respect of

acquiring two hectare of land from Gat No. 308 for Rs.70,000/-.

5. It is to be noted that the Reference Court awarded the meagre amount in respect of acquired land. It is to be noted that the the Apex Court in the matter of Special Land Acquisition Officer, **Malaprabha Dam Project, Saundatti and Others vs. Madivalappa Basalingappa Melavanki and Others**¹ held that if the small piece of land is acquired and meagre amount is awarded by the Reference Court, then there is no question of interference at the hand of High Court. In similar way, Apex Court in the matter of **Airports Authority of India vs. Satyagopal Roy and Others**² 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.

Paragraphs 15 & 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

1 (1995) 5 SCC 670

2 (2002) 3 SCC 527

Baslingappa 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:

"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."

6. Considering the submissions made by learned AGP for applicant, I am of the opinion that applicant has failed to disclose the sufficient cause for condonation of 4 years and 212 days delay in filing First Appeal. Apart from that the Reference Court awarded meagre amount in respect of acquired land. Considering these facts, following order is passed.

ORDER

(i) Civil Application is rejected.

(ii) This order is passed on the basis of delay in filing First Appeal and meagre amount awarded by Reference Court, hence, it should not be treated as precedent in any other connected matter.

(K.K.TATED, J.)