

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1304 OF 2018
WITH
FIRST APPEAL (ST) NO. 27000 OF 2017
WITH
CIVIL APPLICATION NO. 1309 OF 2018

The State of Maharashtra ... Applicant
V/s.
Shri. Raosaheba Narhar Mahimkar ... Respondent

Ms. Tanaya Goswami, AGP for the Applicant.

CORAM: K.K.TATED, J.
DATED : 23/09/2019

P.C.

1 Heard learned AGP for the Applicant.

2 By this Civil Application, Applicant State of Maharashtra is seeking condonation of 3 years and 85 days delay in filing First Appeal challenging the judgment and award dated 24.01.2014 passed by the Joint Civil Judge, Senior Division, Solapur in LAR No. 74 of 1992 holding that Respondent Claimant is entitled to additional compensation of rs.42,640/- in respect of acquired land.

3 The learned AGP for the Applicant submits that before filing First Appeal, on behalf of State of Maharashtra, they have to take approval from several departments. Hence, there is a delay in filing First Appeal. In support of this contention, the learned AGP relied on paragraph 2 of the Civil Application. She submits that they have good chance of success in the matter. She

submits that in the interest of justice, this Hon'ble Court be pleased to condone the delay and matter be heard on its own merits.

4 I heard learned AGP for State at length. It is to be noted that in the present proceeding, the Special Land Acquisition Officer issued notification under Section 4 of the Land Acquisition Act dated 29.06.1989 for acquiring Respondent's land from village Antroli, Taluka South Solapur, District Solapur for the purpose of "Begumpur Branch Canal". After following due process of law, the Special Land Acquisition Officer declared Award under Section 11 of the Land Acquisition Act and awarded sum of Rs.63,000/- towards the acquired land.

5 Being aggrieved by the said award, the Respondent preferred Reference under Section 18 of the Land Acquisition Act and claimed compensation @ Rs.70,000/- PH. The Reference Court by impugned Judgment and Award dated 24.01.2014 held that the Respondent Claimant is entitled to Rs. 42,640/- by way of additional compensation in respect of the acquired land.

6 Bare reading of the Civil Application, shows that though the Applicant applied for certified copy on 30.01.2014 and same was delivered to them on 10.04.2014, they filed present First Appeal in this Court on 25.09.2017. The reason given by the Applicant that they have to take approval from several departments before filing First Appeal, cannot be considered as good reasons.

7 It is to be noted that this court in the matter of **Special Land Acquisition Officer & Anr. Vs. Jose Prazeres de Piedade Pinto 2006(2) BCR 773** held that the delay caused because of movement of file from one table to another cannot be considered as a good ground for condonation of delay. Para 12 of the said judgment reads thus:

12. The delay merely because it has occasioned in a matter relating to land acquisition case involving public money, condonation thereof cannot be construed as a matter of right to the Government. In case of delay, it is necessary for the Government machinery to furnish the necessary satisfactory explanation for such delay. In case the delay has occurred on account of either wilful acts on the part of the concerned officer/ s or for any other reason, which could even defeat the rights of the Government or the acquiring body in relation to the provision for appeal against the award passed by the Reference Court, the mere statements regarding the movement of the file from one office to the other office, from one table to the other table cannot be construed as satisfactory explanation for the delay in filing the appeal. In the case in hand, as already observed above, merely stating that the file moved from one office to another, either for opinion or for preparation of financial report, no explanation has been placed on record as to why it took particular number of days for obtaining either the opinion of the Law Department or for preparing the financial implication report by the Executive Engineer. It apparently discloses total failure on the part of the applicants in explaining the cause for the delay of 281 days in filing the appeal as well as 51 days' delay in filing the application for condonation of delay.

8 The apex court in the matter of **Office of the Chief Post Master General & Ors. Vs. Living Media India Ltd. & Anr. 2012 ALL SCR 892** held that the delay attributable to impersonal machinery and bureaucratic methodology cannot be a ground for condonation of delay. Para 13 of the said judgment reads thus:

“13. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.”

9 In view of the above mentioned facts and the law declared by this court as well as the apex court, I do not find any substance in the Civil Application.

10 Hence, following order is passed:

a) Civil Application for condonation of delay stands rejected.

b) Registration of the First Appeal stands rejected.

c) In view of the dismissal of the Civil Application for condonation of delay, the Civil Application for stay stands rejected as infructuous.

b) No order as to costs.

(K.K.TATED, J.)