

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (CAO) NO.1070 OF 2019 IN
MISC.CIVIL APPLICATION (MCA) ST.NO.22503 OF 2018 IN
FIRST APPEAL (FA) ST.NO.5139 OF 1994 (R.C.NO.15 OF 1998)
(Farooque Mohammad Ibrahim (Dead) thr.LRs Vs. State of Maharashtra & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri R.J.Mirza, Advocate for the appellants.
Ms.H.N.Jaipurkar, A.G.P. for respondent Nos.1 to 3.

CORAM : PUSHPA V. GANEDIWALA, J.
DECEMBER 19, 2019.

Heard.

This is an application seeking condonation of 7580 days delay caused in filing application/revision under Chapter-II Rule 7 of the Bombay High Court Appellate Side Rules, 1960.

It is stated that applicants/appellants are the legal representatives of the original appellant/owner of field bearing Survey No.139/2002 situated at Village-2, Mouza Digras, District Yavatmal, ad measuring 2 hectares 64 R. The said land was acquired by the Government for the purposes of submergence in the Arunawati Project vide Land Acquisition Case No.02/65/82-83. After due procedure, an award came to be passed on 28/01/1987.

It is stated that the original appellant/owner being dissatisfied with the award

passed by the learned Land Acquisition Officer filed a Reference Petition wherein the learned Reference Court allowing the said reference enhanced the compensation @ Rs.62,500/- per hectare.

It is stated that being again dissatisfied with the aforesaid award, the appellant had preferred First Appeal before this Court which came to be dismissed in default by the Registrar (Judicial) for not removing office objections i.e. non-payment of Court fees.

It is further stated that the original appellant being rustic villager had no resources. It is further stated that for want of necessary arrangement for payment of requisite Court fees, he could not file the present application for restoration of First Appeal within time.

Shri Mirza, learned Advocate for the applicants/claimants submits that this Court in appeal which arose out of the same acquisition proceedings wherein similarly situated land has been granted greater amount of compensation.

It is stated that the subject land was the sole earning source for the applicants/claimants. Till date, they did not receive enhanced amount of compensation as has been granted by the learned Reference Court.

It is also stated that the applicants/claimants undertake to pay requisite

Court fees with interest as per law and are also ready to surrender the claim in respect of interest during the period of default (from the date of order of dismissal till the date of restoration) i.e. from 23/01/1998 till today.

Considering the aforestated reasons so also considering the well settled principle that sufficient cause matters than the length of delay, this Court is of the opinion that the instant application needs to be allowed and the same is accordingly allowed.

Delay of 7580 days caused in filing application/revision under Chapter-II Rule 7 of the Bombay High Court Appellate Side Rules, 1960, stands condoned.

Civil Application is disposed of accordingly.

MISC.CIVIL APPLICATION ST.NO.22503/2018.

The order dated 23/01/1998 passed by the Additional Registrar (Judicial) in First Appeal St.No.5139/1994 is recalled.

Civil Application is disposed of accordingly.

FIRST APPEAL ST.NO.5139/1994.

Appeal be registered.

JUDGE

Sumit