

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

27 CIVIL APPLICATION NO.2344 OF 2013 IN FAST/2595/2013

BARKU MAHIPAT CHOUDHARY
VERSUS
THE STATE OF MAH AND ORS

...
Advocate for Applicant : Nima R Suryawanshi
AGP for Respondents No.1 and 2 : Mr. S. N. Morampalle
Advocate for Respondent No.3 : Ms. Vaishali D. Jadhav

...
28 CIVIL APPLICATION NO.2346 OF 2013 IN FAST/3596/2013

PITAMBAR MAHIPAT CHOUDHARY
VERSUS
THE STATE OF MAHRASHTRA AND OTHERS

...
Advocate for Applicant : Nima R Suryawanshi
AGP for Respondents No.1 and 2 : Mr. P. M. Kulkarni
Advocate for Respondent No.3 : Ms. Vaishali D. Jadhav

...
29 CIVIL APPLICATION NO.2347 OF 2013 IN FAST/3598/2013

GHANSHYAM SAMPAT PATIL (BAVISKAR), DIED L.RS. JIJABAI AND
OTHERS
VERSUS

THE STATE OF MAHRASHTRA AND OTHERS

...
Advocate for Applicants : Nima R Suryawanshi
AGP for Respondents No.1 and 2 : Mr. S. N. Morampalle
Advocate for Respondent No.3 : Ms. Vaishali D. Jadhav

...
30 CIVIL APPLICATION NO.2350 OF 2013 IN FAST/3606/2013

TUKARAM CHINDHA PATIL
VERSUS
THE STATE OF MAHRASHTRA AND OTHERS

...
Advocate for Applicant : Nima R Suryawanshi
AGP for Respondents No.1 and 2 : Mr. P. M. Kulkarni
Advocate for Respondent No.3 : Ms. Vaishali D. Jadhav

...
31 CIVIL APPLICATION NO.2351 OF 2013 IN FAST/3603/2013

RAMESH CHINDHA PATIL
VERSUS
THE STATE OF MAHRASHTRA AND OTHERS

...
Advocate for Applicant : Nima R Suryawanshi
AGP for Respondents No.1 and 2 : Mr. S. N. Morampalle
Advocate for Respondent No.3 : Ms. Vaishali D. Jadhav

32 CIVIL APPLICATION NO.2353 OF 2013 IN FAST/3600/2013

RAMDAS CHINDHA PATIL
VERSUS
THE STATE OF MAHRASHTRA AND OTHERS

...
Advocate for Applicant : Nima R Suryawanshi
AGP for Respondents No.1 and 2 : Mr. S. N. Morampalle
Advocate for Respondent No.3 : Ms. Vaishali D. Jadhav

33 CIVIL APPLICATION NO.2355 OF 2013 IN FAST/3594/2013

JIJABAI GHANSHYAM PATIL
VERSUS
THE STATE OF MAHRASHTRA AND OTHERS

...
Advocate for Applicant : Nima R Suryawanshi
AGP for Respondents No.1 and 2 : Mr. P. M. Kulkarni
Advocate for Respondent No.3 : Ms. Vaishali D. Jadhav

34 CIVIL APPLICATION NO.2356 OF 2013 IN FAST/2609/2013

ANANDA MAHADU CHOUDHARY
VERSUS
THE STATE OF MAH AND ORS

...
Advocate for Applicant : Nima R Suryawanshi
AGP for Respondents No.1 and 2 : Mr. R. B. Bagul
Advocate for Respondent No.3 : Ms. Vaishali D. Jadhav

35 CIVIL APPLICATION NO.2357 OF 2013 IN FAST/2600/2013

SADASHIV KHUSHAL PATIL, DIED THR. L.RS. KAILAS AND ORS
VERSUS
THE STATE OF MAH AND ORS

...
Advocate for Applicants : Nima R Suryawanshi
AGP for Respondents No.1 and 2 : Mr. S. P. Deshmukh
Advocate for Respondent No.3 : Ms. Vaishali D. Jadhav

36 CIVIL APPLICATION NO.2360 OF 2013 IN FAST/2607/2013

NARAYAN SADASHIV PATIL
VERSUS
THE STATE OF MAH AND ORS

...
Advocate for Applicant : Nima R Suryawanshi
AGP for Respondents No.1 and 2 : Mr. S. P. Tiwari
Advocate for Respondent No.3 : Ms. Vaishali D. Jadhav

37 CIVIL APPLICATION NO.2361 OF 2013 IN FAST/2602/2013
MOHAN MAHADU CHOUDHARY
VERSUS
THE STATE OF MAH AND ORS

...
Advocate for Applicant : Nima R Suryawanshi
AGP for Respondents No.1 and 2 : Mr. Y. G. Gujrathi
Advocate for Respondent No.3 : Ms. Vaishali D. Jadhav
...

38 CIVIL APPLICATION NO.2362 OF 2013 IN FAST/2605/2013

VIKRAM SADASHIV PATIL
VERSUS
THE STATE OF MAH AND ORS

...
Advocate for Applicant : Nima R Suryawanshi
AGP for Respondents No.1 and 2 : Mr. P. M. Kulkarni
Advocate for Respondent No.3 : Ms. Vaishali D. Jadhav
...

39 CIVIL APPLICATION NO.2363 OF 2013 IN FAST/2597/2013

ASHOK BHATA PATIL
VERSUS
THE STATE OF MAH AND ORS

...
Advocate for Applicant : Nima R Suryawanshi
AGP for Respondents No.1 and 2 : Mr. S. N. Morampalle
Advocate for Respondent No.3 : Ms. Vaishali D. Jadhav
...

CORAM : K.K. SONAWANE, J.

DATED : 10th FEBRUARY, 2020.

ORDER :-

Heard learned counsel for the applicants-original claimants. Perused the applications and earlier order passed by this Court dated 4th October, 2019, as well as other relevant documents produced on record.

2. It appears that, after restoration of proceedings, notices were not issued to the respondents. Hence, issue notice to the respondents. Learned AGP waives service of notice on behalf of respondents No.1 and 2, whereas, Ms. Vaishali D. Jadhav, learned counsel waives service of notice for respondent No.3 – Acquiring Body.

3. It has been submitted on behalf of applicants-claimants that delay caused in filing the appeals is not intentional or deliberate, but, it caused due to unavoidable circumstances as well financial crises for filing the present appeals. A reasonable opportunity be given to the applicants for seeking relief of enhancement of compensation in this matter. The learned counsel further added that applicants-appellants will not claim statutory benefits as well as amount of interest as laid down in the Land Acquisition Act, 1894, for the period of delay sought to be condoned, in case of success of appeals on merit. Hence, learned counsel for applicants prayed for condonation of delay.

4. Learned counsel for respondent No.3 - Acquiring Body submits that there is inordinate delay, which has not been explained satisfactorily, therefore, the same cannot be condoned and prayed for rejection of applications. Learned AGP for respondents No.1 and 2 submits the suitable orders may be passed.

5. Admittedly, the matters pertain to enhancement of compensation for the lands under acquisition. The learned Reference Court partly allowed the Reference Petition filed by the applicants under section 18 of the Land Acquisition Act, 1894. The applicants intend to challenge the findings for awarding meagre compensation amount and also intend to seek enhancement of compensation.

6. In view of the aforesaid submissions and for the reasons mentioned in the applications that the delay so caused in filing the appeals was only due to unavoidable circumstances as well financial crises, I find it justifiable to give reasonable opportunity to the applicants-appellants in the interest of justice to ventilate grievances before the Appellate Forum. There is sufficient cause to allow the applications for condonation of delay. In addition, the applicants-claimants have shown their willingness / inclination that they will not claim statutory benefits as well as amount of interest as mentioned above. In such circumstances, by imposing aforesaid fetter of waiver of statutory benefits and interest amount etc. on the part of applicants-appellants, there would not be any impediment to condone the delay. The applications for condonation of delay required to be allowed.

7. In sequel, applications are allowed in terms of prayer clause "B". The delay caused to present the appeals against the impugned Judgment and Award stands condoned subject to condition that applicants-appellants shall not claim statutory benefits as well as amount of interest as laid down in the Land Acquisition Act, 1894 for the delayed period allowed to be condoned, in case, any enhanced compensation is awarded by this Court after adjudication of appeals on merit.

8. Pursuant to aforesaid waiver of statutory claim, the applicants-appellants shall furnish undertakings to that effect and place it on record of the appeals to enable this Court to take note of the same, while decision of the appeals on merit. Registry to take requisite steps for further process.

9. The Civil Applications are allowed in aforesaid terms and stands disposed of.

10. On registration of appeals, issue notice to the respondents. Learned AGP waives service of notice for respondents No.1 and 2.

11. Meanwhile, call for record and proceedings from the concerned Reference Court.

12. After compliance of procedural formalities, list the appeals for admission in due course.

Sd./-

[K. K. SONAWANE]
JUDGE