

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

**24 CIVIL APPLICATION NO. 1680 OF 2020
IN FAST NO. 4638 OF 2020
WITH
CIVIL APPLICATION NO. 1678 OF 2020
IN FAST NO. 4508 OF 2020**

**THE EXECUTIVE ENGINEER
VS
LATABAI VISHWANATH JAGTAP AND ANR**

Mr. J.R. Patil, Advocate h/f Mr. Gulab B. Rajale, Advocate for the applicants

Mr. A. S. More, Advocate for respondent No. 1 and 2

Mr. P. M. Kulkarni, AGP for the respondent/State

CORAM : V. L. ACHLIYA, J.

DATE : 14-12-2020

P. C.

. The applicant has moved this application seeking condonation of delay in filing of appeal for the reasons set out in detail in the application.

2. Heard learned counsel for applicants and the counsel representing the respondents.

3. In brief, it is the contention of the learned counsel for the applicant that delay in filing of the appeal is not deliberate and occurred due to reasons set out in detail in the application i.e. to

secure clearances from the higher authorities for filing of appeal.

4. The learned counsel for the applicant submits there is enhancement to the extent of six times the compensation awarded by the Special Land Acquisition Officer. Sale instance of 22-R of land has been taken to consideration for enhancement of compensation. It is submitted that the land was acquired for Seena Kolegaon Project Storage tank. Sale instance of 22-R of land i.e. small piece of land has been considered for determination of compensation. It is submitted that transaction below 2-Acres of land is not permissible under law and hit by provisions of Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act. It is submitted that as per the judgment and award passed by the reference court it is observed that 2-Acres of land sold for Rs. 1,20,000/- in the year 1994. The acquisition of land is made in the year 1996. In that view, sale instance of 1994 at the most have been considered in determination of compensation. However, the sale instance of 22-R of land has been considered to enhance the compensation. The interest has been awarded from the date of notification which is contrary to the full bench decision of this court in the case of *State of Maharashtra Vs Kailash Shiva Rangari reported in 2016 (3)MhLJ 457*.

5. Learned counsel for the applicant submits that the appellant has good case to succeed in the appeal.

6. In case, delay is not condoned, there is every likelihood that a meritorious matter may be rejected for technical reasons. On the other hand, if delay is condoned, no serious prejudice would cause to the respondents as ultimately the case will be decided on its own merits.

7. On due consideration of the submissions advanced in the light of unchallenged and uncontroverted pleadings made in the application assigning cause for condonation of delay, I am of the view that delay deserves to be condoned. The applicants-appellants have shown their bonafides and deposited the amount in terms of award. I am, therefore inclined to allow the application. Accordingly, application is allowed in terms of prayer clause-B. Delay is condoned. Appeal be registered.

[V. L. ACHLIYA, J.]