

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

**CIVIL APPLICATION NO.8924 OF 2019
IN FAST/14255/2019**

**THE EX. ENGINEER, HATNUR CANAL DIVISION, CHOPDA
VERSUS
HAJI JAHIRODDIN AMINODDIN JAHGIRDAR AND ORS**

Advocate for Applicant-Acquiring Body : Mr. Subhash S. Chillarge
Advocate for Respondents No.1 to 13 (claimants) : Mr. Madhav M. Bhokarikar
AGP for Respondent No.14-State : Mr. S. P. Deshmukh

WITH CA/8926/2019 IN FAST/14277/2019

CORAM : K.K. SONAWANE, J.

DATED : 06th JANUARY, 2020.

ORDER :-

Mr. Bhokarikar, learned counsel submits that he has instructions to appear on behalf of all the respondents-original claimants. He filed document of GPA (General Power of Attorney) executed in favour of claimant-respondent No.1 by rest of the respondents-claimants. Therefore, service of notice to respondents-claimants is complete.

2. Heard learned counsel for applicant-Acquiring Body and learned counsel appearing for respondents-claimants as well as learned AGP for respondent-State. Perused the applications and other relevant documents produced on record.

3. The applicant-Executive Engineer, Hatnur Canal Division, Chopda, being Acquiring Body preferred present applications for condonation of 1708 days' delay caused in filing First Appeals against the impugned Judgment and Award passed by the learned Reference

Court in LAR No. 21 and 22 of 2010 filed by the respondents-claimants under Section 18 of Land Acquisition Act, 1894. According to learned counsel for the applicant-Acquiring Body, impugned Judgment and Award passed by the Reference Court is erroneous, illegal and is not as per the provisions of Land Acquisition Act, 1894. Applicant is the body corporate having its independent entity. After procuring the funds for court fees appeals came to be filed, however, there is delay in filing the first appeals. According to learned counsel for applicant, delay so caused is not intentional or deliberate, but caused due to compliance of official process.

4. Mr. Bhokarika, learned counsel fairly conceded that the impugned Award is passed in the year 2014. The matters were pending before the learned Reference Court since year 2010. The applicant-Acquiring Body did not deposit amount of enhanced compensation awarded by the learned Reference Court. He requested to condone delay subject to issuance of directions to the applicant-Acquiring Body for depositing the enhanced compensation amount awarded by learned Reference Court.

5. Learned counsel for the applicant-Acquiring Body put in controversy the order passed by learned Reference Court in regard to the interest amount awarded in favour of the claimants from the date of possession i.e. 28-01-1983. Learned counsel for the applicant submits that the findings of grant of interest from the date of possession is erroneous and against the settled principle of law. He contends that the applicant is ready to deposit the entire enhanced compensation amount awarded by the learned Reference Court except

the interest from the date of possession of the acquired lands by the applicant-Acquiring Body. Learned counsel for applicant shown inclination to deposit the interest amount from the date of Award i.e. from 18-03-2000.

6. The learned AGP submits that the suitable orders may be passed.

7. I have given anxious consideration to the submissions advanced on behalf of both the sides. Admittedly, matters pertain to the land acquisition proceedings involving public funds. The applicant- Acquiring Body is the Government Agency looking after the irrigation projects. In view of nature of the subject matter and reasons mentioned in the application, I find that reasonable opportunity is essential to be granted to applicant- Acquiring Body to ventilate it's grievance in the Appellate Forum for redressal on certain conditions.

8. Accordingly, Civil Applications are allowed in terms of prayer clause (B). The delay of 1708 days' caused in filing First Appeals against the impugned Judgment and Award is hereby condoned subject to condition that the applicant-Acquiring Body shall deposit enhanced compensation amount awarded by the learned Reference Court in LAR No. 21 and 22 of 2010, within a period of eight weeks from today. In case, applicant-Acquiring Body fails to deposit the amount as directed above within stipulated period, the present order shall stand vacated automatically without further reference to this Court and application for condonation of delay be treated as dismissed. In case, the applicant-Acquiring Body is succeeded to deposit the enhanced compensation amount as referred above within stipulated period, the present order

will take its effect.

9. It is stipulated that the applicant-Acquiring Body for the sake of present proceedings is hereby exempted to deposit the interest amount awarded under Sections 28 or 34 of the Land Acquisition Act, 1894, if any, from the date of possession of acquired lands in the present proceedings, however, the interest amount should be calculated from the date of Award for the sake of grant of present applications for condonation of delay. Registry to take requisite steps for further process.

10. On registration of first appeals, issue notice to the respondents. Mr. Bhokarikar, learned counsel waives service of notice for all the respondents-claimants, whereas, learned AGP waives service of notice for respondent- the State of Maharashtra.

11. Call for record and proceedings from the concerned Reference Court.

12. After receipt of record and proceedings, list the first appeals for further process in due course.

Sd./-

[K. K. SONAWANE]
JUDGE

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