

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

CIVIL APPLICATION NO.10717 OF 2017 IN FAST/24586/2017

LAXMAN SHENFADU DHEPALE AND ANR
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...
Advocate for Applicants-claimants : Mr. D. A. Bide h/f. Mr. Vitthal B. Wayal
AGP for Respondents No.1 and 2 : Mr. R. B. Bagul
...

WITH CA/10699/2017 IN FAST/24582/2017 WITH CA/10715/2017 IN FAST/24546/2017
WITH CA/10716/2017 IN FAST/24573/2017 WITH CA/10718/2017 IN FAST/25005/2017
WITH CA/10719/2017 IN FAST/24584/2017 WITH CA/10724/2017 IN FAST/24570/2017
WITH CA/10725/2017 IN FAST/24560/2017 WITH CA/10736/2017 IN FAST/24549/2017
WITH CA/10737/2017 IN FAST/24577/2017 WITH CA/10738/2017 IN FAST/24575/2017
...

CORAM : K.K. SONAWANE, J.

DATED : 10th FEBRUARY, 2020.

ORDER :-

Heard learned counsel for the applicants-original claimants and learned AGP for respondents No.1 and 2. Perused the applications and other relevant documents produced on record. Notice was issued to respondent No.3 - Acquiring Body.

2. Learned counsel for the applicants-original claimants submits that notice has already been served to respondent No.3 Acquiring Body privately. He produced the affidavit of acknowledgment of service of notice on record. It appears that, notice has already been served to respondent No.3. The sufficient time was granted to respondent No.3 to take steps for proper appearance in the present proceedings. When the matters are called out, no one else appeared on behalf of 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 AGP for respondents No.1 and 2 submits that there is inordinate delay, which has not been explained satisfactorily, therefore, the same cannot be condoned and prayed for rejection of applications.

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 stand disposed of.

10. On registration of appeals, issue notice to the respondents, returnable on 02-03-2020.

11. Learned AGP waives service of notice for respondents No.1, 2.

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

13. After compliance of procedural formalities, list the appeals for admission.

Sd./-

[K. K. SONAWANE]
JUDGE