

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

931 CIVIL APPLICATION NO.12895 OF 2018
IN FAST/31670/2018 WITH CA/12896/2018 IN FAST/31670/2018 WITH
CA/12897/2018 IN FAST/31675/2018 WITH CA/12898/2018 IN
FAST/31675/2018 WITH CA/12899/2018 IN FAST/31698/2018 WITH
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FAST/31740/2018 WITH CA/12938/2018 IN FAST/31642/2018 WITH
CA/12939/2018 IN FAST/31642/2018

THE EX. ENGINEER, BEED IRRIGATION DIVISION, THR G.M.I.D.C.,
AURANGABAD

VERSUS

ASHABAI NARAYAN GHADGE AND ORS

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Advocate for Applicant : Mr. Sudhir G. Bhalerao

AGP for Respondents: Mr. Y.G. Gujarathi.

Adv. For respondents : Mr. V.P. Latange, with Mr. T.G. Gaikwad.

CORAM : K.K. SONAWANE, J.

DATE : 14th JANUARY, 2020.

PER COURT:

1] Heard learned counsel Mr. Bhalerao for the applicant/Acquiring Body Mr. Latange, learned counsel for respondents/original claimants and learned AGP Mr. Gujarathi for the State.

2] Perused the applications filed for condonation of delay caused for filing First Appeal against the impugned judgment and award passed by the learned Reference Court in the proceeding filed by the respondents/claimants under Section 18 of the Land Acquisition Act. Learned Counsel for applicant/s submits that the delay caused is not intentional and deliberate but caused due to compliance of official procedure.

3] Learned counsel for the respondents/claimants vociferously opposed the contentions propounded on behalf of learned counsel for Acquiring Body and submits that there is huge delay caused in filing the appeals which is not explained satisfactorily. The impugned judgment and award came to be passed in the year 2013 and since then the respondent acquiring Body did not give any response for payment of compensation as per the impugned judgment and award passed by Reference Court under Section 18 of the Land Acquisition Act. The respondents/claimants are fighting in the court of law for determination of correct market value of their acquired land since year 2011-12. According to learned counsel for respondents/claimants this court, under order dated 16.10.2018 granted interim relief of stay to the execution and implementation of the impugned judgment and award passed by Reference Court subject to deposit of entire decretal amount within a period of 12 weeks from the date of order. But, the applicant Acquiring Body did not give any response and after great persuasion, the applicant Acquiring Body deposited only 50% of the decretal

amount, without any reasonable cause. The Acquiring Body did not pay any heed to the conditional order of interim relief dated 16th October, 2018 passed by this court. Therefore, the learned counsel for respondents/claimants fervidly contends that the delay may not be condoned and the applicant - Acquiring body be directed to deposit the rest of balance amount in this court forthwith.

3] I find some force in the contentions propounded on behalf of respondents/original claimants. Admittedly, the respondents/claimants preferred reference petitions under Section 18 of the Land Acquisition Act in the year 2011 for determination of correct market value of their land. The learned Reference Court adjudicated the reference petitions on merit in the month of November, 2013 and since then, the respondents/claimants are stranded for compensation amount calculated by the Reference Court under Section 18 of the Land Acquisition Act. Admittedly, the acquiring body was party respondent in the reference petitions. The Executive Engineer, Minor Irrigation Division, Beed represented the Acquiring Body in the reference petitions. The Executive Engineer, Minor Irrigation Division is one of the allied department of the present Acquiring Body - Godavari Marathwada Irrigation Development Corporation. Being aggrieved by the quantum of compensation determined by the Reference Court, the applicant - Acquiring Body is intending to file appeals against the impugned judgment and award passed by the reference Court.

4] At this juncture, learned counsel for applicant Acquiring Body fairly conceded that the applicant - Acquiring Body is ready to deposit the balance decretal amount within a period of two weeks. Mr. Bhalerao, learned counsel for Acquiring Body made a statement across the Bar to that effect. In such circumstances, the grievance of the respondents/claimants in regard to payment of compensation

by the Acquiring Body would come to an end.

4] Having given anxious consideration to the arguments advanced on behalf of both sides, I am of the considered opinion that reasonable opportunity needs to be given to the applicant Acquiring Body to ventilate its grievances in the appellate forum. The appellant is the Government Agency I.e. Acquiring Body and in view of public interest, it is imperative to extend latitude while dealing with the condonation of delay, by adopting liberal and pragmatic approach. If the appeals of the appellant acquiring body are not allowed to be presented for further process on the ground of such default of delay, no person is individually affected but, ultimately, the public interest would be at stake. Therefore, I do not find any impediment to allow the applicant/ Acquiring Body to present an appeal by condoning the delay. It would not cause any prejudice or injustice to the respondent. In contrast, it would subserve purpose in the interest of justice. Hence, the application for condonation of delay deserve to be allowed by imposing condition on the Acquiring Body to deposit rest of the balance amount of 50% compensation as determined by the learned Reference Court.

5] In sequel, the applications for condonation of delay stand allowed in terms of prayer clause (B). Delay caused in filing appeals against the impugned judgment and award is hereby condoned. Registry to take requisite steps for registration of appeals.

6] On registration of appeal, issue notice of admission of appeals to respondents. AGP waives notice for respondent/State. Mr. Latange learned counsel waives notice for respondents/original claimants. List the appeals for admission and if possible, for hearing on merit on 30th January, 2020. Meanwhile, the applicant Acquiring

Body shall deposit rest of the 50% balance decretal amount in this court on or before 28th January, 2020.

7] It is made clear that if the Acquiring Body fails to deposit rest of the balance 50% amount in this court within stipulated period as indicated above, the requisite order for dismissal of appeals will be passed on next date. In case the applicant Acquiring Body deposits the rest of the decretal amount on or before 28th January, 2020, there shall be stay to the execution, operation and implementation of the impugned judgment and award, untill further orders.

8] Parties to act upon authenticated copy of this order.

[K.K. SONAWANE]
JUDGE.

grt/-