

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

915 CIVIL APPLICATION NO.2083 OF 2020
IN FAST/40937/2019 WITH CA/2097/2020
IN FAST/41153/2019 WITH CA/2099/2020
IN FAST/41142/2019 WITH CA/2092/2020
IN FAST/41187/2019 WITH CA/2090/2020
IN FAST/41197/2019 WITH CA/2088/2020
IN FAST/41205/2019 WITH CA/2095/2020
IN FAST/41180/2019

EX.ENGINEER, LATUR MINOR IRRIGATION
DIVISION, LATUR UNDER G.M.I.D.C.,
AURANGABAD AND ANR.

VERSUS

SUBHASH VITTHALRAO DESHMUKH (DIED) THR
LRS TRIVENIBAI AND ORS

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Mr. B.R.Surwase, Advocate for Applicants.
Mr. B.M.Dhanure, Advocate for R – 1 to 4.

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CORAM : V.L.ACHLIYA, J.

DATE : 16/12/2020

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ORAL ORDER :

1. The applicants/appellants have moved these applications seeking condonation of 1086 days delay in filing Appeals for the reasons set out in detail in the applications.

2. Heard learned counsel for applicants/appellants and the counsel representing the respondents in C.A.Nos. 2083 of 2020, 2097 of 2020 and 2099 of 2020. The respondents in other connected applications though served are absent.

3. In brief, it is the contention of learned counsel for applicants that the delay caused in filing Appeals was not deliberate and intentional. Considerable time was lapsed in securing clearance in filing Appeals. It is submitted that though the Award was passed on 30/09/2016, the Advocate representing the applicants/appellants is not communicated in respect of decision made in the month of July, 2017. Immediately, the application for certified copy was made and proposal was sent for consideration of higher authority. The instructions were given to Smt. Chaitali Choudhary, Advocate of filing Appeals. However, she has not filed Appeals and returned the papers. Thereafter another Advocate was engaged and Appeals came to be filed. In the process the delay has been caused in filing Appeals. In this background, the delay is not deliberate but mainly occurred due to non communication within time and time spent in securing approval. It is submitted that appellants have good case to succeed in Appeals.

4. Learned counsel for applicants/appellants submits that Special Land Acquisition Officer has awarded compensation at the range of Rs. 1,003/- to Rs. 1,337/- per R. The Reference Court awarded enhancement @ Rs. 11,797/- per R. i.e. more than 9 to 10 times of compensation awarded by Special Land Acquisition Officer. It is further submitted that 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 V/s Kailash Shiva Rangari reported in 2016 (3) AIR Bom. R. - 742***. It is submitted that if delay is not condoned, serious prejudice may cause to the applicants/appellants.

5. On the other hand, learned counsel for respondents/claimants in C.A.Nos. 2083 of 2020, 2097 of 2020 and 2099 of 2020 opposed the applications with contention that the reasons assigned are not sufficient to condone the delay.

6. On due consideration of submissions advanced in the light of unchallenged uncontroverted pleadings made in the applications assigning cause for condonation of delay, I am of the view delay deserves to be condoned. If delay is condoned, the matters will be decided on its own merit. There is arguable case to be considered in Appeal. The applicants have shown bonafides in terms of Award. In that view, the applications are allowed. Delay is condoned. Appeals be registered.

7. The applications are disposed of in above terms.

[V.L.ACHLIYA]
JUDGE