

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

71 CIVIL APPLICATION NO.8327 OF 2020
IN FAST/16014/2020

THE EXECUTIVE ENGINEER, MINOR IRRIGATION OSMANABAD
THROUGH SUB DIVISIONAL ENGINEER, AND ANOTHER
VERSUS
VISHWAS KRUSHNA GADKAR

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Mr.Shyam C. Arora Advocate for Applicant No.1–Acquiring Body
Ms.D.S. Jape, A.G.P. for Applicant No. 2.
Mr.Sanjay B. Bhosale Advocate for Respondent.

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CORAM: ANIL S. KILOR, J.

DATE : 15th MARCH, 2021

ORDER :

1. This is an application filed by the applicant - Acquiring Body for condonation of delay. There is delay of 2572 days, which is about seven years, in filing the first appeal challenging the Judgment and Award dated 30-11-2012, in Land Acquisition Reference No. 109 of 2002, passed by learned IIIrd Joint Civil Judge, Senior Division, Osmanabad.

2. The reasons stated in the applications for condonation of delay are as follows :-

"4. The impugned award passed by the learned reference court is dated 30/11/2012. The application for certified copies was preferred on 29/11/2019 and was delivered on 05/12/2019. The applicants were not aware about the said judgment and award as the Learned Court below has kept reserve the said reference for judgment.

5. The Applicants sought legal opinion from the advocate, who conducted reference. The applicants sought necessary documents and communications from the office of The Special Land Acquisition Officer, Osmanabad.

6. The applicants are the Government institution and has to take approval and budgetary provision to file the appeal from the Government. The Applicant No.1 has asked for the amount of Court fees to file these appeals to the Head Office as well as to the Government. The time has been lapsed to receive the amount of Court Fees and as soon as the amount required for filing Appeal was received by the Applicant from Head Office, the appeal is filed."

3. The learned counsel for the applicants submits that the sufficient cause is shown in the application for condonation of delay. It is further submitted that, the applicant- Acquiring Body

has already deposited the decretal amount in this Court, and therefore, he submits that this is a fit case for condonation of delay. Learned counsel for the applicant, in support of his contentions, placed reliance on the Judgment of the Hon'ble Bombay High Court in the case of – ***Esha Bhattacharjee Versus Managing Committee of Raghunathpur Nafar Academy and others***¹ and submits that the State or a public body or an entity representing a collective cause should be given some acceptable latitude.

4. Per contra, learned counsel for claimant opposed the application pointing out that no sufficient reasons are given by the applicant-Acquiring Body, therefore, he prays for rejection of application.

5. I have gone through the contents of the application for condonation of delay.

6. After going through the application, I have no hesitation to hold that in the present matter the delay is inordinate. If it is the case of the applicant that the Reference Court passed the Award in question on 30-11-2012 and an

1 (2013) 12 SCC 649

application for obtaining certified copy was preferred on 29-11-2019, it is obligatory on the part of Acquiring Body to give reasons for delay of about seven years in making application for certified copy.

7. In a recent Judgment of the Honourable Supreme Court of India in the case of - ***State of Madhya Pradesh and others Versus Bherulal***² has held that ;

"It is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months / years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few."

8. The above observations are made by the Apex Court, relying upon the Judgment in ***Postmaster General Versus Living Media (India) Ltd.***³

9. In that view of the matter, the Judgment cited by the applicant - Acquiring Body, in the case of ***Esha Bhattacharjee (supra)*** is of no help to the applicant-Acquiring Body.

10. In the circumstances, in absence of any sufficient cause shown in the application for cause of delay in filing appeal, the civil application is rejected.

[ANIL S. KILOR, J.]

asb/MAR21