

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

FIRST APPEAL NO. 275 OF 2005

1. The State of Maharashtra
2. The Collector, Yavatmal, District Yavatmal.
3. The Special Land Acquisition Officer,
Benefitted Zone, Arunawati Project, Digras,
District Yavatmal.

...APPELLANTS

Versus

Ulhas s/o Raoji Rathod (Banjari),
aged about 35 years, Occ. Agriculturist,
R/o Mokh, Tq. Digras, District Yavatmal.

...RESPONDENT

WITH
CIVIL APPLICATION (F) NO. 1391 OF 2021
WITH
FIRST APPEAL ST. NO. 585 OF 2019

Ulhas s/o Raoji Rathod (Banjari),
aged about 55 years, Occ. Cultivator,
R/o Mokh, Tq. Digras, District Yavatmal.

...APPLICANT/ APPELLANT

Versus

1. The State of Maharashtra
Through its Secretary, Revenue and Forest Department,
Mantralaya, Mumbai.
2. The Collector, Yavatmal, District Yavatmal.
3. The Special Land Acquisition Officer,
Benefitted Zone, Arunawati Project, Digras,
District Yavatmal.

...RESPONDENTS

Shri A.P. Tathod, Advocate for the claimant.
Ms. H.N. Jaipurkar, A.G.P. for the State.

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CORAM : PUSHPA V. GANEDIWALA, J.
DATED : JULY 23, 2021.

JUDGMENT :

CIVIL APPLICATION (F) NO. 1391/2021.

By this application, the applicant/ claimant, in reference proceedings for enhancement of the compensation, seeks condonation of delay in filing the appeal. The reasons for delay are mentioned in para Nos. 8 to 13 of the application. Reliance is placed upon the judgment of the Hon'ble Supreme Court delivered in the case of **Imrat Lal And Others Vs. Land Acquisition Collector And Others**, reported in (2014) 14 SCC 133. It is further stated that the applicant is willing to forego interest on the amount of compensation, if enhanced.

2. The application is opposed by Ms. Jaipurkar, learned A.G.P., on the ground that reasons furnished are not sufficient.

3. Considering the reasons mentioned in the application, so also considering the ratio laid down by the Hon'ble Supreme Court in **Imrat Lal** (*supra*), which has further been relied on by this Court while condoning long delay in the case of **Shalikrao Deorao Thakre (dead) thr. Lrs Vs. The State of Maharashtra & Ors. (Civil Application (F) No. 2830/2016 with First Appeal (St) No. 20562/2015 decided on 01/02/2017)**, the delay is condoned, subject to the applicant not being entitled for interest on the enhanced amount of compensation for the period 12/03/2004 till date. Civil Application is allowed and disposed of.

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AND
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4. As the points raised in these appeals have already been decided, the appeals which arose out of the same judgment and award are taken up for final disposal with the consent of learned counsel for the parties.

5. Notice for final disposal is made returnable forthwith.

6. Ms. Jaipurkar, learned A.G.P, waives notice on behalf of State.

7. These appeals take exception to the judgment and award dated 12/12/2003 passed by the Civil Judge, Senior Division, Pusad in L.A.C. No. 954/1990 with another connected matter, whereby the Reference Court enhanced compensation @ Rs.1,25,000/- per acre, i.e., Rs.3,12,500/- per hectare for the land bearing Survey No. 126/1/D admeasuring 1.46 hectares situated at Village Mokh, which was acquired by the Special Land Acquisition Officer under L.A.C. No. 5/65/85-86 of Village Mokh for the purpose of extension of living area (gaothan) of Village Mokh, i.e., establishment of new gaothan of Village Mokh. The date of issuance of notification under Section 4 of the Land Acquisition Act was 13/02/1986, and the award was declared on 13/12/1987.

8. The learned counsel on behalf of both the sides drew attention of this Court to the judgment of this Court delivered in the case of **Deosing s/o Gobra Rathod (dead) thr. LRs Vs. The State of Maharashtra and Ors. (First Appeal No. 348/2003** decided on **17/10/2018)** wherein this Court adjudicated the enhanced compensation @ Rs.6,50,000/- per hectare for the land bearing Survey No. 126/1-A situated at Village Mokh, Taluka Digras, District Yavatmal.

It is further stated that the Hon'ble Supreme Court in the case of **Baliram Vs. The State of Maharashtra & Ors. (Civil Appeal No(s) 5146-5147/2011** decided on **11/04/2018)** determined the rate for the land situated at Village Mokh, which was acquired under notification dated 25/09/1986, @ Rs.6,50,000/- per hectare.

9. Considering the aforesaid facts, as the subject matter of the appeals is similarly situated to the subject matter in the above cited appeals, there is no reason for this Court to take a different view.

10. In this view of the matter, the State's appeal, i.e., First Appeal No. 275/2005 needs to be dismissed for want of merits and the same is accordingly dismissed. Consequently, the claimant's appeal, i.e., First Appeal St. No. 585/2019 is allowed, and the impugned judgment and order dated 12/12/2003 passed by the Civil Judge, Senior Division, Pusad in L.A.C. No. 954/1990 with another connected matter, is modified as under :

- i. The State shall pay compensation to the claimant for the acquired land @ Rs.6,50,000/- per hectare with all other statutory benefits by deducting therefrom the compensation which has already been received by the claimant.
- ii. Needless to say that the claimant is not entitled for interest for the delayed period, i.e., from 12/03/2004 till date.
- iii. The appeal be registered for the statistical purposes.
- iv. Both the appeals stand disposed of. No costs.

JUDGE
