

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

914 CIVIL APPLICATION NO.14188 OF 2018
IN FAST/28304/2018

THE EX. ENGINEER, LOWER TERNA CANAL
DIVISION NO.2 LATUR

VERSUS

VENKAT SITARAM DHONE AND ANR

...

Advocate for Applicant : Mr R.B. Deshpande
AGP for Respondent No. 2/State : Mrs D.S. Jape
Advocate for Respondent Nos. 1A to 1C : Ms L.R. Thakur h/f Mr L.C. Patil

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 11th JANUARY, 2022

PER COURT :

1. It is an application for condonation of delay moved by the applicant/acquiring body.
2. Heard Mr Deshpande, learned counsel for the applicant, Ms L.R. Thakur holding for Mr L.C. Patil, learned counsel for original claimants and Mrs D.S. Jape, learned AGP for Respondent No.2/State.
3. Mr Deshpande, learned counsel for the applicant submits that the acquiring body was not a party to the reference proceedings initiated by the original claimants under Section 18 of the Land Acquisition Act. The proceedings under Section 18 of the Land Acquisition Act came to be decided in absence of the acquiring body. The acquiring body came to know about such decision only after receiving the notice from the Collector demanding the amount. The date of knowledge is 03.03.2017. That letter

was received on 03.03.2017. If it is calculated, then the delay would be 468 days in preferring the appeal. Having regard to the peculiar facts of the case, the delay needs to be condoned.

4. Ms L.R. Thakur holding for Mr L.C. Patil, learned counsel for the original claimants and Mrs D.S. Jape, learned AGP for the State strongly opposed to condone the delay. Both of them submitted that delay caused in this case is huge. The reasons assigned by the applicant are not satisfactory. It was inordinate delay caused by the applicant in preferring the appeal. The application needs to be rejected.

5. It is revealed during the course of argument that the applicant/ acquiring body was not a party to the proceedings initiated by the claimants before the Reference Court under Section 18 of the Land Acquisition Act. The proceedings came to be decided in absence of the acquiring body. In fact, the acquiring body was necessary party to the proceedings under Section 18 of the Land Acquisition Act. The acquiring body came to know about such decision by the Reference Court for the first time when the acquiring body received the letter from the Collector on 03.03.2017 demanding money as per the Judgment and Award passed by the Reference Court. There cannot be said to be an intentional delay on the part of the applicant/acquiring body, even though it seems to be delay of 460 days.

6. Having regard to the facts of the case in hand and looking to the legal issues involved in the proposed appeal, the delay needs to be condoned.

ORDER

- (i) The application is hereby allowed in terms of prayer clause A and B.
- (ii) The Civil Application is accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]

mta