

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

902 CIVIL APPLICATION NO.2786 OF 2018
IN FAST NO. 31072 OF 2017

MAROTI BABAJI SURNAR
VERSUS
THE STATE OF MAHARASHTRA AND ORS

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Advocate for Applicant : Mr. Nagarkar Kiran M.
AGP for Respondents: Mr. S P Deshmukh
Advocate for Respondent 3 : Mr. Patil Raturaj C.

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CORAM : V.K. JADHAV, J.
Dated: April 22, 2022
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PER COURT :-

1. Being aggrieved by the award dated 16.3.2000 passed in File No.93/SLO/MIW/CR-15 the appellant/original claimant has preferred the Reference under Section 18 of the Land Acquisition Act for enhancement of the compensation. The learned Civil Judge, S.D., Kandhar in LAR No.732 of 2003 (new) and (LAR 68 of 2002 old) has partly allowed the application and enhanced the compensation to certain extent, however, being aggrieved by the same, the appellant/original claimant has preferred the appeal which is delayed by 2045 days.

aaa/-

2. The learned counsel for the applicant/original claimant submits that the respondent/acquiring body has also preferred an appeal against the judgment and award passed by the Reference Court with an application for condonation of delay and this Court has condoned the delay caused in filing the appeal preferred by the acquiring body. Learned counsel submits that the applicant/original claimant is 75 years of age and except him, no one in the family is looking after the litigation. Further, the applicant/original claimant is also unable to maintain his livelihood and thus he was not in a position to pay the Court fees. Learned counsel submits that the applicant has received the amount to certain extent out of the enhanced compensation in the year 2017.

3. Learned counsel appearing for the respondent/acquiring body submits that there is no reasonable explanation for causing such an inordinate delay in preferring the appeal. The application is liable to be rejected on this ground alone. In the alternate,

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the learned counsel appearing for the respondent/acquiring body submits that the applicant/original claimant may not be entitled for the interest of the delayed period, in the event if he succeeds in the appeal.

4. I have also heard the learned AGP for the respondent-State. The learned AGP has also resisted the application seeking condonation of delay on the ground that the delay is inordinate one and without explanation.

5. Respondent/acquiring body has preferred an appeal against the judgment and award passed by the Reference Court belatedly alongwith an application for condonation of delay and, this court has condoned the said delay, which also runs more than for three years. The applicant/original claimant has also filed present appeal with an application for condonation of delay for remaining amount of the enhancement of the compensation. The applicant/original claimant is 75 years of age and there is no one in the family to look

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after the litigation. Further, the applicant is not financially well. Thus, considering the entire aspect of the case, I am inclined to condone the delay. So far as the interest part of the delayed period is concerned, respondent-acquiring body so also the respondent-State are at liberty to pursue this Court while arguing the appeal finally. Hence, following order.

O R D E R

1. Civil application is allowed in terms of prayer clause 'B'.
2. Civil application is accordingly disposed off.

(V.K. JADHAV, J.)

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