

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL APPLICATION NO. 7458 OF 1997
IN
FIRST APPEAL (ST) NO. 9648 OF 1996

The State of Maharashtra

..Applicant/Appellant

v/s.

Dagdu @ Dagu Baburao Kothule
through Kashinath Kothule
(Since deceased through LRs).

..Respondents

Ms. Tanaya Goswami, AGP for the Applicant-State.

None for the Respondent.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 30th JUNE, 2022.**

P.C.

1. This is an appeal under Section 54 of the Land Acquisition Act, filed along with an application for condonation of delay.
2. The challenge in this appeal is to the judgment dated 29.03.1995 in Land Reference No.119 of 1989. Notification under Section 126 of MRTP Act r/w. Section 6 of Land Acquisition Act was issued on 30.09.1981 for construction of D.P. Road, play ground and school. Award was passed on 21.03.1984. The Respondent, whose land was acquired by the said notification was awarded compensation @ Rs.16/- per sq. meter. Aggrieved by the quantum of compensation awarded by

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the LAO, the Respondent filed a reference under Section 18 of the Land Acquisition Act. The learned Joint District Judge, Nashik vide judgment and award dated 29.03.1995 enhanced the compensation from Rs.16/- to Rs. 21/- per sq. meter. In terms of the judgment, the Respondent is entitled for compensation of Rs.27000/- in respect of the land and total amount of Rs.89,906 including interest and statutory benefits.

3. The Appellant has filed the appeal to challenge the meagre amount of compensation determined by the Reference Court. The appeal is not filed within the prescribed period of limitation, but is filed along with application for condonation of delay. The appeal and the application are pending since the year 1996. No steps have been taken since last over 25 years to serve the parties. Learned AGP is unable to state whether the compensation payable under the judgment and award has been deposited before the Court.

4. It need not be emphasized that the compulsory acquisition deprives the land owners of their source of livelihood. The meagre compensation awarded by the LAO compels them to file reference under Section 18 of the Land Acquisition Act. Instead of paying the compensation determined by the Reference Court, appeals are filed under Section 54 even when the enhancement is marginal or minimal. The Government tried to avoid unwarranted litigation by issuing circular dated 3.11.2016. Despite such circular, neither instructions are given to

withdraw the appeals covered by the G.R., nor steps are taken to pursue the appeals.

5. Considering the above facts and circumstances, as also taking note of the G.R. dated 3.11.2016, I am not inclined to condone the delay. Hence, the delay condonation application is dismissed. Registration of the appeal is rejected.

6. Considering the above facts and circumstances, the rate awarded by the Reference Court shall not be taken as rate approved by this Court.

7. Pending application, if any, stands disposed of.

(ANUJA PRABHUDESSAI, J.)