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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 3703 OF 2019
IN
FIRST APPEAL (ST) NO. 16579 OF 2018

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Shri. Saya Babu Venupure (deceased by legal heir) Shri. Bhiku Saya Venupure ...Applicant

Versus

The Land Acquisition Officer No.3 & Ors. ...Respondents

Mr. Gaurav Potnis, i/b. Pallavi Potnis, for the Applicant.
Ms. Tanaya Goswami, AGP, for the Respondent Nos.1 & 3.

CORAM Madhav J. Jamdar, J.
DATED: 21st April 2022

PC:-

1. Heard Mr. Gaurav Potnis, learned counsel for the Applicant and Ms. Tanaya Goswami, learned AGP for the Respondent Nos. 1 & 3.

2. Mr. Potnis submits that although there is considerable delay, the State has filed First Appeal No.365 of 2010 challenging the impugned judgment and award dated 3rd May,

2008 passed in LR No.222 of 2000 along with connected Land References. He relied on the judgment of this Court passed in Civil Application No. 6151 of 2008 in First Appeal (ST) No. 29237 of 2008 and also judgment dated 16th January, 2020 passed in Civil Application No. 3154 of 2019 in First Appeal (ST) No.20920 of 2018. He submitted that in the light of aforesaid orders, the delay be condoned.

3. On the other hand, Ms. Tanaya Goswami, learned AGP submitted that the delay is inordinate therefore, the delay application be dismissed.

4. It is undisputed that the Respondents have preferred the First Appeal No.365 of 2010 against the impugned judgment and award. In above referred order dated 28th April, 2011, in paragraph 2 it is held as follows:-

“2. The acquiring body has preferred an Appeal against the same impugned Judgment and Award which has been admitted. Hence, applicant can always file Cross Objections in the said Appeal. In the circumstances, sufficient cause is made out. Delay is condoned.”

5. This Court by order dated 16th January, 2020 passed in Civil Application No. 3154 of 2019 in First Appeal (ST) No. 20920 of 2018 in paragraph Nos. 2 and 3 observed as follows:-

“2. This is an application for condonation of delay in preferring the appeal. On perusing the papers, it is noticed that there is delay of around 10 years and some days. However, it is pointed out by the learned counsel for the applicant that respondents i.e State of Maharashtra has preferred an appeal against the impugned judgment and award passed by the reference court bearing First Appeal No.1892 of 2009 and the said appeal has been admitted.

3. Certainly, the delay though appears to be considerable, the same needs to be condoned in view of fact that the appeal filed by the State has already been admitted. In view of this, delay in filing the present appeal is hereby condoned. Civil Application is allowed.”

6. The reasons set out in the above mentioned orders dated 28th April, 2011 and 16th January, 2020 are squarely applicable to the present case. Therefore, the Civil Application is allowed in terms of prayer clause (a).

7. The Civil Application is disposed of in the above terms.

(Madhav J. Jamdar, J.)