

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (F) NO. 979 OF 2019

IN

FIRST APPEAL STAMP NO. 310 OF 2017

Uttam Bhoju Ade _ Vs. _ State of Maharashtra and ors

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Mr. S.U.Nemade, Advocate for applicant/appellant
 Mr. M.Kadu, AGP for Respondent Nos. 1 & 3
 Mr. P.B.Patil, Advocate for Respondent No.2

CORAM : AVINASH G. GHAROTE, J.

DATE : 21/11/2022

Civil Application (F) No. 979/2019.

The civil application seeks condonation of delay of 526 days caused in filing the first appeal. Though Mr. Nemade, learned counsel for the appellant submits that he has instructions to make a statement that the appellant would not claim interest for the period of delay of 526 days in filing the appeal and even till today, the Hon'ble Apex Court in ***New Okhla Industrial Development Authority Vs. Rameshwar @ Ramesh Chandra Sharma (Dead) Through Legal Heir and another, 2022 SCC OnLine SC 1599***, has held as under :-

“10. However, at the same time the acquiring body and the beneficiary of acquisition shall not be saddled with the liability of statutory benefits and the interest which may be available under the Land Acquisition Act, 1894 for the delayed period. In the present case the delay of 22 years can be said to be a substantial delay. However, as the claimants are held to be entitled the enhanced amount of compensation, in the facts

and circumstances of the case, the High Court can be said to be justified in condoning the delay. However, at the same time, the High Court has erred in awarding other statutory benefits and interest for the delayed period. To saddle with the liability to pay statutory benefits and interest for the delayed period upon the beneficiary/acquiring body would be a financial burden upon the public body and it may increase the project cost which shall be against the public interests. It cannot be disputed that the liability towards the statutory benefits and the interest under the Act, 1984 would be a huge liability considering the interest at the rate of 15% per annum, solatium, price rise etc. Therefore, while condoning the delay and enhancing the amount of compensation at par with other land owners, the High Court ought not to have saddled the liability upon the appellant to pay statutory benefits and the interest payable under the Land Acquisition Act, 1894 for the delayed period. To the aforesaid extent the impugned common judgment and order passed by the High Court is required to be modified and the present appeals are required to be partly allowed to the aforesaid extent.

11. In view of the above and for the reasons stated above all these Appeals Succeed in part. The impugned common judgment and order passed by the High Court passed in respective appeals is hereby partly allowed to the aforesaid extent denying the statutory benefits and the interest which may be payable under the Land Acquisition Act, 1894 for the period between the judgment and award passed by the Reference Court i.e. 15.12.1993 till the respective first appeals were filed after curing the defects. Meaning thereby the original land owners/claimants shall not be entitled to any statutory benefits including the interest payable under the Land Acquisition Act, 1894 on the enhanced amount of compensation for the period between 15.12.1993 till the respective first appeals after curing the defects were filed.”

2. The reason for delay is stated to be the advanced age of the appellant which is more than 77

years. In view of the above, the delay is condoned though it is objected by learned AGP appearing for respondent Nos.1 and 3 and Mr. P.B.Patil learned counsel for respondent No.2, subject to the condition that the original land owners/claimants (appellants herein) shall not be entitled to any statutory benefits including the interest payable under the Land Acquisition Act on the enhanced amount of compensation for the period of delay. The civil application is accordingly allowed, subject to what is stated above.

The office to register the appeal.

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Issue notice for final disposal, returnable in four weeks.

Mr.Kadu, learned AGP waives notice for Respondent Nos.1 and 3 and Mr. Patil, learned counsel waives for Respondent No.2.

Mr. Nemade, learned counsel for the appellant shall file private paper-book along with all exhibited documents within a period of four weeks from today.

Call R & P

JUDGE

Rvjalit

Digitally sign byRAJESH
VASANTRAO JALIT
Location:
Signing Date:22.11.2022 17:07