

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

CIVIL APPLICATION (CAF) NO.3032/2019

IN

FIRST APPEAL ST. NO.27362/2018

Kisan Gamaji Koli @ Dantalwad (Since Dead), Through his legal heirs
Parvatibai wd/o Kisan Dantalwad and others

...Versus...

The State of Maharashtra, Through Collector, Yavatmal and District – Yavatmal
and others

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

Court's or Judge's orders

Shri A.A. Zade, Advocate h/f Shri V.N. Patre, Advocate for applicants
Mrs. Mayuri Deshmukh, AGP for respondent nos.1 and 3
Shri M.A. Kadu, Advocate for respondent no.2

CORAM : AVINASH G. GHAROTE, J.

DATE : 22/11/2022

1. Learned Assistant Government Pleader Mrs. Mayuri Deshmukh appears for the respondent nos.1 and 3. Advocate Shri M.A. Kadu appears for the respondent no.2.

2. The civil application seeks condonation of delay of 2088 days in filing the first appeal. Advocate Shri Zade holding for Shri Patre, learned counsel for the applicants submits that he has instructions from the applicants/appellants to make a statement that

applicants/appellants shall not claim the interest on the enhanced compensation for the delayed period.

3. Though a statement has been made that the applicants/appellants shall not claim interest on the enhanced compensation, for the delayed period, 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.”

3. In view of the above, the delay is condoned 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. Office to register the appeal.

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1. **ADMIT.**
2. Learned Assistant Government Pleader Mrs. Mayuri Deshmukh waives service of notice for the respondent nos.1 and 3 on merits. Advocate Shri M.A. Kadu waives service of notice for the respondent no.2 on merits.
3. The appellants shall file the private paper-book within a period of two weeks from today.

(AVINASH G. GHAROTE, J.)