

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

CIVIL APPLICATION NO.7335 OF 2023
IN FAST/7807/2020 WITH CA/3543/2020 IN FAST/7807/2020 WITH
CA/3544/2020 IN FAST/7807/2020 WITH CA/3553/2020 IN
FAST/7899/2020 WITH CA/3554/2020 IN FAST/7899/2020 WITH
CA/3555/2020 IN FAST/7902/2020 WITH CA/3556/2020 IN
FAST/7902/2020 WITH CA/3549/2020 IN FAST/7907/2020 WITH
CA/3550/2020 IN FAST/7907/2020 WITH CA/3551/2020 IN
FAST/7912/2020 WITH CA/3552/2020 IN FAST/7912/2020 WITH
CA/3545/2020 IN FAST/7915/2020 WITH CA/3546/2020 IN
FAST/7915/2020 WITH CA/3547/2020 IN FAST/7918/2020 WITH
CA/3548/2020 IN FAST/7918/2020 WITH CA/7336/2023 IN
FAST/7899/2020 WITH CA/7342/2023 IN FAST/7918/2020 WITH
CA/7339/2023 IN FAST/7912/2020 WITH CA/7338/2023 IN
FAST/7915/2020 WITH CA/7340/2023 IN FAST/7907/2020 WITH
CA/7333/2023 IN FAST/7902/2020 WITH CA/7337/2023 IN
FAST/7915/2020 WITH CA/7341/2023 IN FAST/7907/2020 WITH
CA/7334/2023 IN FAST/7902/2020

RAMAKANT SHRIDHAR MADWARE
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE COLLECTOR,
LATUR AND ANR

...
Advocate for Applicant : Mr. Vikas G. Kodale
AGP for Respondents: Mr. S.S. Dande.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 10TH JULY, 2023

ORDER :-

IN APPLICATION FOR CONDONATION OF DELAY :-

By this application, the applicant seeks to condone the delay of 2416 days caused in filing the appeal.

2. Mr. Dande, learned AGP for the State would submit that the delay is occasioned on account of administrative contingencies and procedural requirement. He would invite attention of this court to the reasons stated in para. Nos. 2 and 3 of the application and submits that sufficient cause is made out to condone the delay. He would also rely upon the proposition of law laid down in the case of ***“Collector Ananatnag Vs. Union of India “ (1987)2 SCC 107.***

Considering the submissions advanced and the reasons stated in the application, the application deserves to be allowed. Hence, the following order :-

O R D E R

The application is allowed. Delay of 2416 days caused in filing the appeal is hereby condoned.

Appeal be registered.

IN CIVIL APPLICATION FOR WITHDRAWAL OF AMOUNT :-

By this application, the applicants who are original claimants are seeking permission to withdraw the amount deposited by; the appellants as per the award of the Reference Court.

The learned counsel for the applicants submits that the lands have been acquired in the year 1999. The Land Acquisition Officer had granted compensation @ 1100 per R. He would submit that during reference before the court, it has been brought on record that the land in question is within the municipal limits and having NA potential. He would further submit that the Reference Court has also consider the earlier awards passed in similar cases and rates granted therein. He

would, therefore, pray for withdrawal of the entire amount deposited by the appellant.

Per contra, Mr. Dande, learned advocate appearing for the respondent State would submit that exponential enhancement has been granted.

Admittedly, the land was agriculture land when it was acquired and, therefore, compensation on square feet basis ought to have been granted. He would further submit that the development charges, open spaces etc. are the factors which are required to be considered when the compensation is assessed on the basis of NA use of the land. He would, therefore, submit that to protect the interest of the State Exchequer, the prayer for withdrawal may not be considered.

Having considered the submissions advanced, it is apparent that in the year 1999 lands of the applicants have been acquired. Further, those lands are situated within the municipal limits. The Reference Court has considered the deduction of 30% towards Development Charges etc. and assessed the compensation. However, considering the interest of both the parties, it would be appropriate to permit the applicants to withdraw 50% of the amount on undertaking and further 25% amount on furnishing solvent surety /security. Hence the order :-

ORDER

[I] The civil application is allowed. The applicants are permitted to withdraw 50% of the amount deposited subject to undertaking to be furnished to the satisfaction of the Registrar (Judicial) of this court. The applicants would be entitled to withdraw 25% of the amount subject to furnishing solvent surety/security to the satisfaction of

the Registrar (Judicial) of this Court. Balance 25% amount be kept in fixed deposit with renewal clause.

IN APPLICATION FOR STAY :-

Mr. Dande, learned advocate for the applicant submits that the entire amount as per the award has been deposited with the Registry of this Court. The statement is not controverted by the respondents. Hence, the civil application deserves to be allowed.

Civil application is allowed in terms of prayer clause (B).

IN APPLICATION FOR BRINGING LRS OF DECEASED :-

Heard learned counsel for the applicant and learned AGP for the State.

Having considered the reasons stated in the application, the civil application is allowed. Delay caused in filing the application is condoned. The applicants are permitted to bring the LRs of legal heirs on record as per prayer clause (B) and (C). Amendment be carried out within 14 days.

**[S.G. CHAPALGAONKAR]
JUDGE**

grt/-