

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION NO. 907 OF 2019
IN
SUIT NO. 599 OF 2015**

Airport Authority of India ...Applicants

In the matter between

Pramila D. Gharat and Ors. ...Plaintiffs

vs.

Airport Authority of India and Ors. ...Defendants

Ms.Ketki Gadkari a/w Mr.Sumit Kothari-Advocates for Plaintiff.
Ms.Uma Palsuledesai - AGP a/w Mr.Himanshu B. Takke - AGP
for State - Respondent Nos.2 to 4.
Ms.Radha H. Bhandari i/b. M.V. Kini and Company - Advocate
for Defendant No.1 - Airport Authority of India.

CORAM : S. M. MODAK, J.

DATE : 20th OCTOBER 2023

P. C. :-

1. Heard learned Advocate for Defendant No.1 - Applicant and learned Advocate for Plaintiffs - Respondents.
2. The Suit is for declaration that the Plaintiffs are the owners of the land and also for declaration that the Award dated 28th March, 1974 has lapsed in view of the provisions of Section 24(2) of the Right to Fair Compensation Act, 2013.
3. Defendant No.1 is an Acquiring Body, whereas, Defendant

Nos.2 to 4 are the Government and other Officers. The Learned Prothonotary as per the order dated 27th November, 2015 was pleased to transfer the Suit to the list of Undefended Suits in case the four Defendants will will not file written statement on or before 11th February, 2016. Whereas, this Court as per the order dated 20th March, 2018 was pleased to grant one week time to Defendant Nos.2 to 4 to file written statement. While passing the order, Counsel for Defendant No.1 was present. The contention of the Plaintiff is that at that time, Defendant No.1 could have sought for extension.

4. Defendant Nos.2 to 4 were permitted to file written statement after condoning the delay subject to cost of Rs.15,000/- (Rupees Fifteen Thousand Only). The order dated 27th February, 2018 is on Page No.19.

5. It is true that there is another Suit No.675 of 2015 filed by another Plaintiff against the present Defendant No.1 and others. As per the order dated 27th January, 2017, THIS Court permitted Defendant No.1 to file written statement on or before 15th February, 2017.

6. The present Motion is for condoning the delay of 1120 days caused in filing written statement. The contention is, there was some misunderstanding about filing of written statement.

That is to say, in a connected Suit, written statement was already filed and Defendant No.1 was under impression that in the present Suit also, written statement was filed. But, it is not the fact.

7. There is a strong opposition for condoning the delay for the reason that there is an inordinate delay and there is no satisfactory explanation. Motion is not accompanied by written statement.

8. It is true that another Suit is also filed and in which, Defendant No.1 has filed written statement. It is also true that on 20th March, 2018, Defendant No.1 could have sought time to file written statement. However, this has not been done. So, certainly there is lapse on the part of Defendant No.1. It seems to be not diligent. However, this Notice of Motion was filed in the year 2019 after they realized their mistake. So, this lapse is not of such kind which cannot be condoned. It can be condoned subject to payment of cost of Rs.5,000/- (Rupees Five Thousand Only) to be paid to the Plaintiffs. Ultimately, it is always better if the matter is decided on merits after giving an opportunity to both the sides.

9. In view of that, following order is passed :-

O R D E R

- (i) Notice of Motion is allowed in terms of prayer clause (a) subject to payment of cost of Rs.5,000/- (Rupees Five Thousand Only) to the Plaintiffs within a period of two (2) weeks from today.
 - (ii) Defendant No.1 is permitted to file written statement in the Office within week. But, it will be accepted subject to payment of cost.
 - (iii) Let Office to accept the written statement which was already typed on ledger paper.
10. In view of the above, Notice of Motion is disposed of.

[S. M. MODAK, J.]