



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3994 OF 2023

SACHIN SUNDARRAO SHEMBADE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr. S. K. Naikwade, Advocate for the petitioner
Mrs. R. R. Tandale, AGP for the respondent/State
Mr. P. D. Suryawanshi, Advocate for respondent No.2.

CORAM : R. M. JOSHI, J.

DATE : 14th JUNE, 2024

PER COURT :-

1. This petition takes exception to the order dated 27th February, 2018 passed by the learned District Judge-1, Majalgaon in M.C.A No. 67/2014 whereby the application for condonation of delay in preferring restoration petition against order dated 5th July, 2013 passed in L.A.R. No. 96/2010 is rejected.

2. Learned counsel for the petitioner submits that it is the right of the petitioner who has lost the land to seek compensation. In such circumstances, the learned Court was not justified in refusing to condone delay. It is his further submission that the delay is not inordinate nor any malafides can be attributed to the petitioner in not making application in time. Learned counsel for the petitioner, on instructions,

makes statement that if the LAR No. 96/2010 is restored, the petitioner would not claim any interest on the enhance amount if any granted from the date of filing till filing of restoration application.

3. Learned counsel for the acquiring body as well as the learned AGP opposed the petition.

4. This Court finds substance in the contention of the learned counsel for the petitioner that the petitioner has lost his land and is entitled for the compensation. Being aggrieved by the award passed by the Special Land Acquisition Officer reference has been made to the Competent Court. In such circumstances, when the petitioner voluntarily forfeits the interest on the enhance compensation granted if any by the Reference Court, it would be sufficient ground for condonation of delay. Furthermore no malafides can be attributed to the petitioner for not preferring the application in time for restoration of the proceedings.

5. Hence, petition is allowed. Impugned order dated 27th February, 2018 is set aside. LAR No. 96/2010 is restored to the file of the Court at its original stage. It is clarified that if the petitioner succeeds in getting enhance compensation, he would not be entitled to receive any interest thereon from the date of the reference till filing of the application

for restoration. Considering the fact that the proceedings of the year 2010 the learned Trial Court is requested to decide the same within a period of six (06) months from today.

(R. M. JOSHI, J.)

ssp