



3 order is corrected pursuant to speaking to minutes order dated 02.12.2024)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1023 CIVIL APPLICATION NO. 7712 OF 2024
IN ARBAST/19860/2024

AND

1024 CIVIL APPLICATION NO. 7715 OF 2024
IN ARBAST/19863/2024

AND

1025 CIVIL APPLICATION NO. 7719 OF 2024
IN ARBAST/19855/2024

National Highways Authority Of India, Thru. Its Project
Director Shree Swapnil Kasar

VERSUS

The Competent Authority, Dy. Collector And Anr.

- Mr. N. P. Bangar, Advocate for the Applicants
- Mr. R. P. Adgaonkar, Advocate for the Respondent No. 2

CORAM : R.M. JOSHI, J

DATE : NOVEMBER 13, 2024

COMMON ORDER :

1. These applications are filed for condonation of delay of 53 days in preferring Arbitration Appeals against the order passed by the District Court confirming the award passed by the Arbitrator.

2. It is the case of the Applicant that while determining amount of compensation the competent authority has granted the same on higher side than entitlement of Respondents. This fact has not been

taken into consideration by the District Court in an arbitration application under Section 34 of the Arbitration and Conciliation Act. In this backdrop, Appeals are sought to be filed with condonation of delay and following contentions are raised for seeking condonation of delay in paragraph nos. 7 and 8, which reads thus;

7. The Applicant say and submit that, the learned principal District Judge Latur, was pleased to reject the Arbitration case filed by this petitioner by order dated 27/11/2023 and thereby maintained the enhancement granted by learned Arbitrator Latur. The enhancement of compensation amount is at much higher side. The Competent authority fixed the rate for acquired land @ Rs 1502/ sq meter whereas learned Arbitrator Latur enhanced the market value of the acquired land @ Rs. 2208/- per sq meter. The application for certified copy was made on 8/12/2023 and same was received on 29/12/2023. Thereafter, the proposal for appeal was sent to Regional Office, N.H.A.I. Nagpur on 25/01/2024 for sanction & same is under consideration.

8. The Applicant say and submit that as said earlier the proposal for sanction for appeal is under consideration with Regional office, office of Project Director, N.H.A.I., Nanded has referred the case to panel advocate at Aurangabad via mail on 6/3/2024 for filing appeal against the

order passed by learned Principal District Judge, Latur. The panel advocate has asked for certified copies of the Judgment and order passed by learned principal District Judge Latur/ as well as copies of memo of appeal and other documents.

3. Learned Counsel for the Applicant submits that there is delay of only 53 days and that no mala fides can be attributed to the Appellant for not preferring Appeal within a period of limitation. It is his contention that it is the public authority and that since no prejudice is shown or any advantage not entitled is gained by the Appellant by not filing Appeal in time, there is no reason for not accepting the reasons given for condonation of delay.

4. Learned Counsel for the Respondent relied upon the judgment of Hon'ble Supreme Court in case of Government of Maharashtra (Water Resources Department) Represented by Executive Engineer vs. Borse Brothers Engineers and Contractors Private Limited, (2021) 6 SCC 460 and he relied upon the observations made therein in paragraph 67. he also placed reliance on the judgment of the Allahabad High Court in case of National Highway Authority of India v. Smt. Sampata Devi, 2024(1) All.

LJ 117 to contend that sufficient cause under Section 5 of the Limitation Act is not elastic enough to cover long delays. It is his submission that amount of delay caused in these Applications may appear to be 53 days, however, in the context of fact that this is a commercial Appeal, the said delay is inordinate.

5. The Applications filed for delay condonation in Appeals clearly show that it is a specific case of Applicant/Appellant in each case that there is compensation granted by the competent authority which is on higher side and said aspect has not been considered by the District Court. There are reasons given by the Applicant for not preferring Appeal in time. Even Respondent cannot make any allegation that there are mala fides on the part of the Appellant in not preferring Appeals in time or the position of Respondent is changed adversely and irreversibly. One cannot ignore fact that the Appellant is the public authority and unlike the private individuals are required to undertake procedure before initiating proceedings in Court of law. The Hon'ble Supreme Court in the facts involved in the particular case has not

accepted the reasons put-forth by the Appellant therein, however, no law is laid down that the reasons mentioned in the present Applications cannot be considered as sufficient cause for delay condonation. Apart from this, the judgment of the Allahabad High Court is passed in peculiar facts.

6. Apart from this, the Respondents are unable to show any prejudice much less irreparable loss being caused to them if the delay is condoned nor this is the case wherein the position of the Respondents is materially adversely changed. Having regard to the aforestated facts, this is a fit case to condone the delay. These Applications are allowed subject cost of Rs. 5,000/- (for each application) payable to the **Respondent No. 2. Interim relief to continue till next date of hearing.** Cost be paid within a period of two weeks. If amount of the cost is paid within this period, Appeals be registered. If not paid, Applications/Appeals shall stand dismissed without further reference to the Court.

(R.M. JOSHI, J.)