



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 8117 OF 2024
IN FIRST APPEAL (ST) NO. 20317 OF 2024
AND CA/8119/2024 IN FAST/20327/2024
AND CA/8135/2024 IN FAST/20321/2024
AND CA/8137/2024 IN FAST/20331/2024

The Executive Engineer,
Minor Irrigation Department, Jalgaon

..APPLICANT

VERSUS

Maya Rajendra Kulkarni and Others

..RESPONDENTS

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Mr. R.N. Dhorde, Senior Advocate i/b Mr. A.D. Pawar, Advocate for applicants

Mr. V.B. Patil, Advocate for respondent no.1

Mr. S.J. Salgare, Mrs. S.N. Deshmukh, Ms. U.S. Bhosle and Mr. S.V. Hange, A.G.Ps. for respondent – State in respective applications

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CORAM : R.G. AVACHAT AND
NEERAJ P. DHOTE, JJ

DATE : 04th OCTOBER, 2024

PER COURT :

1. These are the applications by the acquiring body for condonation of forty-four days delay in preferring first appeal against the judgment and award dated 22nd February, 2024 passed by learned Jt.C.J.S.D., Jalgaon in respective land acquisition references.

2. We have heard learned counsel for the applicants. He submits that sufficient reasons are mentioned in the applications in support of delay, and therefore, the applications be allowed.

3. Learned counsel for the claimants opposes the application. He submits that the delay is not sufficiently explained, and therefore, the applications be rejected.

4. Learned A.P.P. in respective applications submit that appropriate order be passed.

5. We have gone through all the applications. Following reasons are mentioned in support of the delay :-

“8. The applicant humbly submits that, there is delay of 44 days in filing of the present First Appeal, which is neither intentional nor deliberate. The original claimants did not pay the deficit Court Fees before the Ld. Reference Court and therefore, the copy of Award/Decree is not prepared by the Ld. Reference Court and thus its certified copy is not received by the appellant acquiring body till the date.

The appellant acquiring body applied for certified copy of the judgment on 2.2.2024 and received the same on 6.3.2024. After receipt of the copies some time was consumed in getting administrative sanction for the appeal and for preparation of appeal.

The appellant did not receive the certified copy of Award/Decree (as the claimants did not pay the deficit court fees deliberately) and the applicant is filing the present appeal, without certified copy of the decree.

9. The applicant humbly points out that, in view of the very huge and extraordinary enhancement granted by the Ld. Reference Court as far as fruit bearing trees are concerned, thereby without considering the record of the SLAO, the joint measurement reports and the reports of District Agricultural officers, the appellant acquiring body was compelled to the challenge the impugned judgment without waiting for the certified copy of the decree and therefore, there is no delay from the point of view of the appellant acquiring body.

Even if some delay has caused for filing the present appeal, by taking into consideration the huge public fund, which may not be misused by the claimants, the delay may please be condoned in the interest of justice."

6. In view of aforesaid contentions, we proceed to pass the following order :-

All the civil applications are allowed in terms of prayer clause (B).

(NEERAJ P. DHOTE, J.)

SSD

(R.G. AVACHAT, J.)