



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

32 CIVIL APPLICATION NO. 83 OF 2021

IN FAST/23305/2020

WITH

CIVIL APPLICATION NO. 84 OF 2021

IN FAST/23305/2020

EX. ENGINEER, IRRIGATION PROJECT MAJBUTIKARAN
PROJECT OMERGA UNDER M.K.K.V.D.C., PUNE AND ORS

VERSUS

DAYANAND BABU PATIL

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Advocate for Applicants : Mr. Koralkar Arun Hanumant.

Advocate for Respondent : Mr. Patne Santosh N.

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CORAM : S. G. MEHARE, J.

DATE : 05.03.2024

PER COURT :-

1. Heard the respective learned counsels.
2. As usual, without any justifiable reason, the appeal has been preferred after 1421 days. This Court has taken a view that such a negligent act on the part of the concerned authority cannot be considered a good ground for condonation of delay. In such cases, a liberal view may not be taken blindly. However, to protect the interest of the Government, a delay may be condoned subject to cost. Hence, the following order :

ORDER

- (i) Application is allowed.

- (ii) Delay in preferring the appeal is condoned subject to cost of Rs.500/- per month.
- (iii) The cost be recovered from the pocket/salary of the errant officers.
- (iv) The costs be deposited within twelve (12) weeks from today.
- (v) The Office should register the appeal if the cost is deposited in a given time. If the cost is not deposited in a given time, this application be deemed rejected.
- (vi) List the matter after twelve (12) weeks.
- (vii) Meantime, there shall be interim stay to the execution and implementation of the impugned judgment and award subject to deposit the entire amount as per the impugned judgment and award within twelve (12) weeks.
- (viii) If the money is not deposited in a given time, the stay would be vacated automatically.
- (ix) It is clarified that there shall be no extension of time to deposit the money as directed.

Civil Application No.84 of 2021 (Stay)

3. Learned counsel for the appellant submits that the impugned judgment and award is exorbitant. Learned Reference Court has granted the interest from the date of the

Notification under Section 4 of the Land Acquisition Act. It is illegal. Hence, stay may be granted. If the stay is granted conditionally on depositing the money, such interest may not be directed to be deposited.

4. Per contra, learned counsel for the respondent strongly opposed the application. He would submit that it is a disputed fact whether the compensation cannot be granted from the date of the Notification under Section 4 of the Land Acquisition Act. He submits that it is a money decree. Hence, blanket stay cannot be granted and the submissions of the learned counsel for the appellant can not be considered.

5. It is correctly argued that it is a money decree. Hence, blanket stay cannot be granted. However, there is a dispute about the date of granting interest. In the circumstances, it would be appropriate to direct the appellant to deposit the entire money as per the impugned judgment and award.

6. In view of the above observations, there shall be interim stay to the execution and implementation of the judgment and award of the Reference Court till depositing the decretal money on the condition to deposit the entire compensation

amount as per the impugned judgment and award within twelve (12) weeks from today.

7. If the money is not deposited in a given time, the stay would be vacated automatically.

8. It is clarified that there shall be no extension of time to deposit the money as directed.

(S. G. MEHARE, J.)

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vmk/-