



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 15394 OF 2023 IN
FIRST APPEAL NO. 36 OF 2016

Prabhakar Tatyaba Jadhav
(Deceased) through LRs & others

.. Applicants

Versus

The Exeuctive Engineer & others

.. Respondents

Mr. L. C. Patil, Advocate for the applicants.
Mr. D. B.Bhange, AGP for the State.
Mr. G.B. Rajale, Advocate for respondent No.3.

CORAM : R. M. JOSHI, J.

DATE : 17th JANUARY, 2024.

PER COURT :

1. This is an application for condonation of delay of 183 days in bringing legal heirs of deceased rabhakar Tatyaba Jadhav on record. Learned counsel for respondent records no objection to allow the application.

2. Having regard to the reasons mentioned in the application and also considering no objection recorded by other side, application stands allowed in terms of prayer clause 'B' and 'C'. Amendment be carried out within two weeks.

(R. M. JOSHI)
Judge

dyb

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PER COURT :

1. This application is moved seeking modification in the order dated 28th April, 2017. This Court was pleased to allow the applicant-original claimant to withdraw the entire amount deposited in this Court by appellant-acquiring body. While allowing the application 50% amount was directed to be withdrawn on furnishing undertaking that in the event of any adverse order is passed, then the amount of compensation would be refunded/re-deposited in this Court within two two months from the date of order. Remaining amount of 50% was directed to be withdrawn on furnishing bank guarantee. The applicant pursuant to the order passed by this Court

withdrew the amount of 50% on furnishing undertaking and remaining 50% of the amount by furnishing bank guarantee.

2. The applicant has now filed this application seeking relaxation of condition of furnishing bank guarantee. The bank has now issued letter to the claimant that earlier bank guarantee is given on depositing 50% cash collateral in the form of STDR/TDR at the relevant time. However, now for bank guarantee the applicant is required to deposit 100% of the amount of bank guarantee. A difficulty is therefore expressed that the applicant is not in a position to deposit 100% amount of the bank guarantee. A relaxation is therefore prayed for. Now the applicant prayed that instead of bank guarantee they may be permitted to furnish solvent surety/security to the satisfaction of the Registrar (Judicial) of this Court and to that extent he is seeking modification in the order dated 28th April, 2017.

3. Applications filed by similarly placed claimants in the same acquisition proceeding for modification of the order have been allowed by this Court. Hence, this Court finds no reason or justification to take any different view. Thus, application is allowed in terms of prayer clause 'B' and 'C'. The Registrar (Judicial) of this

Court to accept the solvent surety/security to his satisfaction. Since the applicant has already withdrawn the amount, in view of this the bank guarantee stands discharged. The Registrar (Judicial) to accept the solvent surety/security in place of bank guarantee. The order dated 28th April, 2017 is modified to that extent.

4. With this, the civil application stands disposed of.

(R. M. JOSHI)
Judge

dyb