



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

912 CIVIL APPLICATION NO. 1175 OF 2024

IN FAST/19390/2020

WITH CIVIL APPLICATION NO. 2030 OF 2021 IN
FAST/19390/2020

WITH CIVIL APPLICATION NO. 2031 OF 2021 IN
FAST/19390/2020

WITH CIVIL APPLICATION NO. 2032 OF 2021 IN
FAST/19900/2020

WITH CIVIL APPLICATION NO. 2033 OF 2021 IN
FAST/19900/2020

WITH CIVIL APPLICATION NO. 2034 OF 2021 IN
FAST/19905/2020

WITH CIVIL APPLICATION NO. 2035 OF 2021 IN
FAST/19905/2020

WITH CIVIL APPLICATION NO. 2037 OF 2021 IN
FAST/19910/2020

WITH CIVIL APPLICATION NO. 2038 OF 2021 IN
FAST/19910/2020

WITH CIVIL APPLICATION NO. 2039 OF 2021 IN
FAST/19926/2020

WITH CIVIL APPLICATION NO. 2040 OF 2021 IN
FAST/19926/2020

WITH CIVIL APPLICATION NO. 1178 OF 2024 IN
FAST/19905/2020

WITH CIVIL APPLICATION NO. 1180 OF 2024 IN
FAST/19926/2020

WITH CIVIL APPLICATION NO. 1177 OF 2024 IN
FAST/19910/2020

WITH CIVIL APPLICATION NO. 1179 OF 2024 IN
FAST/19900/2020

VIKRAM BABRUWAN GUNJAL

VERSUS

**THE STATE OF MAHARASHTRA THROUGH THE COLLECTOR,
OSMANABAD AND ORS**

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Advocate for Applicants : Mr. Patil Laxmikant C.
AGP for Respondents-State : Mrs. R. R. Tandale.
Advocate for Respondent No.2 : Mr. A. S. Shelke.

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CORAM : S. G. MEHARE, J.

DATE : 09.02.2024

PER COURT :-

1. Heard the learned counsel for the applicants and learned counsel for the non-applicants.
2. Learned counsel for the applicants submits that the Reference Court has granted separate compensation for the land and structure based upon the private valuation report without notice by the valuer. Hence, the amount deposited may not be disbursed as prayed.
3. Learned counsel for the applicants relies on the order of the Hon'ble Supreme Court passed in *Civil Appeal No.2481 of 2021, Gundu Vs. State of Maharashtra and others with connected matters* arising out of a similar project and prayed to release the amount, as per the order of the Hon'ble Supreme Court. Believing the statement of the learned counsel for the applicants and considering the order of the Hon'ble Supreme Court, the following order is passed.

ORDER

- (i) All civil applications for withdrawal of amount are allowed.

- (ii) 50% of the amount deposited with this Court be released without furnishing security, and a balance of 50% should be released to them on furnishing security to the satisfaction of the Registrar (Judicial) of this Court, with the accrued interest.

(Civil Applications for delay :- CA-2030/21, CA-2037/21, CA-2034/21, CA-2032/21, CA-2039/21)

1. Until two days before, the lawyers were pressing for the hearing of the applications for condonation of delay. The Court experienced that there were no sufficient causes for preferring the appeal in time, and there was a considerable delay. The Court started testing the cause of actions as per Section 5 of the Limitation Act. The lawyers stopped pressing for the hearing of the delay condonation applications. They were only pressing for a stay. Since morning, this is a third lawyer who sought time to argue on delay condonation applications. This Court observed that they are avoiding this Court and hunting for a favourable forum. Hence, adjournment is refused.

2. Heard the learned counsel for the applicants and the learned counsel for the respondents.

3. Surprisingly, the learned counsel representing the persons whose properties have been lost did not oppose the applications. That shows that he is not discharging his duty as a lawyer to protect the interest of the poor agriculturists who have lost their lands. His no objection would not make any difference. The Court has to apply the law and decide the matters as per the requirements of the law.

4. The reference Court passed the award on 17.07.2014. The appeal period is 90 days from the date of the award. However, the appeals have been preferred against the impugned awards, after around six years. There was an inordinate delay in lodging the first appeals.

5. Learned counsel for the appellants, referring to the contents of the applications for delay condonation, has argued that they received the certified copies on 04.09.2014. Then, applicant No.1 sent a proposal for the legal opinion of Maharashtra Krishna Valley Development Corporation Ltd., Pune. The competent Authority opined that the award should be challenged in the appeal on 24.11.2014. The Deputy Engineer referred the documents to the earlier panel lawyer on 09.12.2014. He was requested to collect the papers and fees. Applicant No.1 handed over the cheque to the earlier lawyer

on the panel on 27.07.2018. Thereafter, applicant No.1 remained under the impression that the first appeals were filed and are pending. Thereafter, in 2019 the panel advocates were changed, and the present cases were entrusted to the present counsel appearing for the appellants. The present lawyer informed applicant No.1 by letter dated 27.01.2020 that he did not receive the first appeal numbers. Thereafter, they tried to contact the earlier panel lawyer. Applicant No.1, after an extensive search on the High Court website, learnt that the first appeals were not filed. He took the date of the knowledge of not filing the appeals in March 2020, and then he further took the shelter of a lockdown of the COVID-19 pandemic. Thereafter, on 04.07.2020, he applied for a fresh application for certified copies. He received the certified copies on 14.07.2020. Then, he deposited the Court fee on 27.05.2020 and asked the panel lawyer to take urgent steps to file an appeal.

6. In a nutshell, the reasons for the delay were the delay in approval and financial sanctions for court fees. These are prevalent grounds and causes for condonation of delay in preferring appeals by Government Officials. It has been claimed that causes were unintentional and not deliberate. He

is taking the shelter of the official procedures for making non-budgetary provisions for court fees, expenses and administrative works. He has also pleaded that applicant No.1 is a legal entity and person interested. It is a public body involved in the welfare and development activities for the benefit of the public at large. Therefore, delay may be condoned.

7. Admittedly, the delay caused in preferring the appeals is enormous. The appellants had to complete the procedure for legal opinion and the budget for expenses. It is a matter of promptitude in the services of the officers responsible. On the one hand, the applicants themselves pleaded that the interest of the public at large is to be protected and that the Corporation is working in the interest of the public at large, and on the other hand, they showed negligence in discharging the duties promptly. The welfare of the public at large should in no way be affected due to the negligence in performing the duties. Every mistake of the Officer not taking steps immediately within a period prescribed unnecessarily burdens the State Exchequer and ultimately burdens the taxpayers. The State is the biggest litigant. The State is well equipped with experts and aware of the procedure of law simply because they

have legislated it. The Government experienced that the executives were not discharging their duties, which caused a lot of chaos. Hence, the State of Maharashtra has to enact the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005. The Government has declared the 'citizen charter' of the facilities and services rendered by the offices and departments to the general public. This Act provides for departmental inquiries against the errant officers. Many matters are simply pending under the garb of procedural compliances without justifiable cause. One could understand that if the procedure is done for the first time, the appellant/corporation is one of the biggest litigants in the Court of law. Hence, it is assumed that it is well aware of the procedure of law and is a matter of routine for them. Every time, the officers take shelter from the procedural delay, but nowhere do they explain how the delay is caused and who is responsible for causing the delay. All the officers of the Corporation were expected to protect the interest of the Corporation indirectly, which is the interest of the Government. Each Executive is bound to save the unnecessary expenses of interest. They are bound to ensure that the Government is not burdened with debts and interest. Under the Land Acquisition Act, the highest rate of interest is

provided. In many cases, as experienced, the Government pays interest more than the principal amount. Unless the compensation is paid, the running of interest does not stop, so it goes multiplying.

8. The question is who is responsible for the delay, obviously, the responsible and concerned officers. Unfortunately, we have no direct law to hold them personally responsible for such failures. They, being public servants, have some protection, but the protection must be reasonable, and that must be beyond the control of such officers. Moving the files from one table to another is obviously not beyond the officers' control. It is nothing but negligence and carelessness. It is happening very regularly.

9. In most cases, these officers take the shelter of the case of *Collector, Land Acquisition, Anantnag Vs. Mst. Katiji and others ; (1987) 2 SCC 107*. In the said case, it was clearly stated that sufficient cause for condonation of delay must be reasonable and should not be discriminated against the Government merely because they are not the private party. It is common knowledge that this Court has been making a justifiably liberal approach in the matters institution in the Supreme Court. When substantial justice and technical

considerations are pitted against each other, the cause of substantial justice deserves to be preferred, for the other side cannot claim to have a vested right in injustice being done because of a non-deliberate delay.

10. The officer/authority may be excused where he is not negligent. The 'culpable negligence' refers to the omission to do something that a reasonably careful person would do or the lack of usual ordinary caution in the performance of an act usually and ordinarily exercised by a person under similar circumstances and conditions.

11. Instead of taking a true message from the pronouncement in Collector Anantnag, it seems the government officers have taken it for granted that they have a certificate. The deliberate delay was not taken liberally, and the doctrine of sufficient cause mentioned in Section 5 of the Limitation Act was also not taken away.

12. Noticing the great lethargy in the performance of the Government servants, the Maharashtra Government felt it necessary to enact the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005, which is popularly known as the

Daptar Dirangai Act. The object of the State Government is to ensure the citizens get timely services, and the Government servants should render services promptly. Enacting such Acts was a sign of omitting to discharge their duties and carelessness. May the said Act cover limited subjects/services under the 'Citizen Charter'. However, it is sufficient to assess the Officer's performance. Even then, there are no improvements in the administration and promptitude.

13. The applicant is a Government constituted Corporation. It is equipped with legal experts, officers and a large staff. It is an independent unit. They have huge funds for the project. They need not to go to the other departments. Every decision was to be taken within the Corporation. Since it is a Government corporation, it has no difficulties getting approval quickly, at least in time. The question that always comes to the head of the common person is why the administrators have no money, only for the poor agriculturists, who are legally entitled to receive compensation for their lands. They run pillar to post for the compensation. They may not have money for the execution of the awards. There is much to say about administrative faults, but writing on it is futile because everyone knows the truth. The Court is their last hope. Hence,

stringent actions are needed against the errant officers to bring discipline to the administration and protect the rights of the citizens who have lost their property.

14. In this case, the reason mentioned for the delay is obviously not beyond their control or reasonable. After the letter was written to the lawyer, they did not explain what they were doing for four years. They were literally sitting over the files for four years. If they had been prompt, sanctions and approvals would have been granted within a few days.

15. Another negligence noted in this case was that after handing over the money to the lawyer on the panel, none of the officers felt it necessary to inquire whether appeals were filed. However, a vague pleading has been made in the applications that they were under the impression that the appeals have been filed. It is not the job of the lawyer to give the services to the litigant at his doorstep. The litigant has to contact and in touch with the lawyer. In the facts and circumstances, the lawyer could not be blamed.

16. After having gone through the reasons for the delay and hearing the learned counsel for the applicants, this Court is not satisfied that the reasons for the delay were sufficient and

beyond their control. It was the culpable negligence and carelessness of the Officers. However, again, the Court has to take care of the Government Exchequer and protect the interest of the Government. However, the errant officers could not be excused unconditionally. They must be saddled with the cost. For the above reasons, the following order is passed :

ORDER

- (i) Civil Applications for delay are allowed subject to costs of Rs.500/- per month for the entire period of delay.
- (ii) The costs be recovered from the salary/pension of all the errant Officers proportionately to their pay and be deposited with the Registrar (Judicial), Aurangabad, within eight (8) weeks from today, and then the Registrar (Judicial) shall inform this Court for its disbursement. If the cost is not deposited as mentioned above, the delay applications will be deemed rejected.
- (ii) The office should register the appeals after depositing the cost.

(S. G. MEHARE, J.)

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vmk/-