



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

902 REVIEW APPLICATION NO.47 OF 2024
IN
CIVIL APPLICATION NO.4528 OF 2019
IN
FIRST APPEAL (STAMP) NO.15445 OF 2012

Gangaram s/o Maroti,
Age 64 yrs., Occ. Agri.,
R/o Marajwadi, Tq. Mukhed,
Dist. Nanded.

... Applicant

... Versus ...

- 1 The State of Maharashtra
Through District Collector,
Nanded.
- 2 The Special Land Acquisition Officer,
M.I.W., Nanded, Dist. Nanded.
- 3 The Executive Engineer,
Vishnupuri Project Division,
Jangamwadi, Nanded,
Now this office is converted
and shifted,
as Executive Engineer,
Lendi Project Division,
At Degloor, Tq. Degloor,
Dist. Nanded.

... Respondents

...

Mr. G.N. Chincholkar, Advocate for applicant
Mr. S.J. Salgare, AGP for respondent Nos.1 and 2

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 02nd APRIL, 2024

ORDER :

1 Present application has been filed for condonation of delay of 83 days in filing application to review the order passed by this Court on 30.08.2019 in Civil Application No.4528 of 2019 and to quash and set aside order dated 21.08.2012 passed by the learned Registrar (Judicial) of this Bench for refusing the registration of the First Appeal (Stamp) No.1545 of 2012 by condoning the delay and permitting the applicant to remove the office objections.

2 Heard learned Advocate for the applicant. He relies on the decision in **Dhiraj Singh (Dead) Through Legal Representatives and others vs. State of Haryana and others** [(2014) 14 Supreme Court Cases 127] and **Imrat Lal and others vs. Land Acquisition Collector and others** [2013 DGLS (SC) 1065]. Learned Advocate for the applicant submits that this Court while considering the application for condonation of delay has taken a very technical view. It ought to have been considered that the applicant is a poor farmer and could not collect the deficit Court fee. Taking into consideration the decision in the above said authorities and the fact that the land of the applicant has been acquired and he has not been awarded just compensation,

this Court ought to have taken liberal approach and, therefore, on that count the order needs to be reviewed. He also submits that by the common Judgment the appeals filed by some persons from the same village arising out of same Notification under Section 4 of the Land Acquisition Act, same Award in same project was allowed and compensation has been enhanced.

3 It is to be noted that as regards delay in filing the review application is concerned, it is of 83 days. In the ordinary course it would have been condoned, however, for that purpose also the facts are required to be considered here.

4 The applicant was the original claimant, who intended to file appeal challenging the Judgment and Award passed in Land Acquisition Reference No.398/2009 (New) i.e. Land Acquisition Reference No.377/2006 (Old) dated 21.01.2012 passed by the learned Civil Judge Senior Division, Link Court, Mukhed, Dist. Nanded. The registration of the First Appeal came to be refused by learned Registrar (Judicial) by order dated 21.08.2012 on the ground that in spite of giving opportunities the office objections were not removed. The main office objection was to pay deficit Court fees of Rs.16,380/-. There were other objections also. The applicant could not remove those objections including payment of deficit Court fees. He had then filed Civil Application No.4528 of 2019 to get the delay of 2289 days

condoned in filing Civil Application for restoration and to set aside the order dated 21.08.2012 passed by the learned Registrar (Judicial). The applicant was heard and the said application came to be rejected by order dated 30.08.2019, wherein also the same contentions were taken. This Court had taken note of inordinate delay of about seven years and within that seven years also he says that he could not arrange for the deficit Court fees to the extent of Rs.16,380/-.

5 Now, again for filing the application for review there is delay of 83 days, which is also on the same ground. It is to be noted that if the applicant is really poor, then he could have approached the High Court Legal Services Sub Committee Aurangabad, whereupon he would not have even required to pay Court fees and he would have got the free legal assistance. This Court had already taken into consideration the ratio laid down in the above referred decisions of the Hon'ble Apex Court. Further, twice the same ground cannot be considered. Duration of delay also matters. The refusal to register the First Appeal was, in fact, the outcome of granting several opportunities to the applicant to remove the office objections, but in spite of those opportunities the minimum office objections have not been removed. Application, therefore, stands rejected.

(SMT. VIBHA KANKANWADI, J.)