



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

CIVIL APPLICATION NO. 9344 OF 2023
IN FAST/22673/2023
WITH
CIVIL APPLICATION NO. 9345 OF 2023
IN FAST/22673/2023

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The Ex.Engineer Minor Irrigation Division.
Versus
Prakash Chandra Ghogare and others.

Mr.S.G. Bhalerao, Advocate for the Applicant.
Mr.Vivek Vishnu Tarde, Advocate for Respondent No.1.
Mr.S.P. Joshi, AGP for Respondent Nos.2 and 3.

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CORAM : ROHIT W. JOSHI, J.

DATE : 4th APRIL, 2025.

Civil Application No. 9344 of 2023 (Delay):-

1. This is an application for condonation of delay of 2754 days caused in filing First Appeal under Section 54 of the Land Acquisition Act. The Applicant/appellant is the acquiring body. In paragraph no.2 of the application, it is stated that the learned Counsel appearing in the reference proceedings did not intimate the applicant about the judgment delivered by the Reference Court. However, during the course of hearing, the learned Counsel for the applicant has

not pressed the grounds enumerated in paragraph no.2 of the application.

2. The delay is sought to be explained in paragraph no.3 by stating that the applicant was unable to file the appeal due to non-availability of funds for court fee stamps and meeting other expenses. Such an explanation is completely unacceptable from a body like the applicant. Apart from this, the delay is not explained by mentioning the dates or the tentative period when proposal for filing of appeal was forwarded, sanction was accorded etc.

3. However, it is informed that delay of approximately the same period caused in filing other connected First Appeals is condoned. In that view of the matter, the delay in filing of the present appeal is condoned. It is also necessary to mention that the applicant/acquiring body has deposited the entire amount of compensation, as awarded by the learned Reference Court, which is an equitable consideration for condoning the delay caused. Likewise, the fact that public money is at stake, also needs to be taken into consideration, particularly in the light of the fact that the delay is stated to be condoned in other connected First Appeals.

4. However, having regard to the reasons enumerated in the application, it will be expedient to award cost of Rs.5000/- payable to the Chairman, Library Committee, Advocates Association of Bombay High Court, Bench at Aurangabad. The learned Counsel for the applicant submits that cost is not imposed while condoning delay in other connected appeals. However, this Court is of the view that cost need to be imposed having regard to the contents of the application, which as stated above are absolutely vague and lacking in particulars. The period of delay also needs to be taken into consideration.

5. In that view of the matter, the Civil Application is allowed by condoning the delay, subject to payment of cost as aforesaid. The amount of cost be deposited within a period of 12 weeks. Appeal be registered, subject to deposit of cost.

6. Civil Application is accordingly disposed of.

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First Appeal Stamp No.22673 of 2023.

1. Appeal is admitted, subject to deposit of cost imposed on the appellant for condonation of delay.

2. Call for Record and Proceeding.

3. Mr.V.V. Tarde, Advocate for respondent no.1/land owner and Learned A.G.P. for respondent nos. 2 and 3 waive service of notice.

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Civil Application No. 9345 of 2023 (Stay) :

1. Since entire amount of compensation is already deposited along with the accrued interest, it will be expedient and in the interest of justice that execution of the impugned judgment and award is stayed till the final disposal of the appeal, however, the same shall be subject to right of the land owners to move for withdrawal of the amount of compensation.

2. Civil Application is accordingly disposed of.

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**CIVIL APPLICATION NO. 1730 OF 2025
IN FAST /22673/2023 (Withdrawal)**

Prakash Chandra Ghogare.

Versus

The Ex. Engineer Minor Irrigation Division and others.

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1. This is an application for withdrawal of the amount filed by the original land owners. Learned Reference Court has granted enhanced amount of compensation awarded by the Land Acquisition

Officer by almost 11 times. In that view of the matter, I am inclined to permit the applicant/original land owners to withdraw 50% of the amount of compensation deposited by the acquiring body with this Court on furnishing usual undertaking.

2. Civil Application is accordingly disposed of.

JUDGE