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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

**FIRST APPEAL NO. 255 OF 2025**

Somaning Dhanappa Duggani (deceased) Through  
His L.Rs 1a. Smt. Indrabai Somning Duggani & Ors ...Appellants  
Versus  
The Special Land Acquisition Officer No.9 Sangli & Ors. ...Respondents

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Mr. Tejpal Ingale a/w Ms. Vrunali Vilankar for the Appellant Nos. 1a to 1c & 1d(1) to 1d(4)  
Mr. A. R. Patil, Addl. G.P. for Respondents-State.

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**CORAM : M. M. SATHAYE, J.**

**DATED : 5<sup>th</sup> AUGUST 2025**

**PC.:**

1. Heard learned Counsel for the Appellants and learned Add. GP for the Respondent -State.
2. The present Appeal takes exception to the impugned judgment and award dated 11/04/2021<sup>12</sup> passed in Land Acquisition Case No. 89 of 2008 by the Civil Judge, Senior Division, Sangali by which the Land Reference is dismissed.
3. Perusal of the impugned Judgment indicates that the Appellants failed to lead any evidence in support of their case and, in essence, the impugned order is not an order passed on merits.
4. Learned counsel Mr. Ingale for the Appellants submitted that an opportunity to lead evidence is necessary in the interest of justice, in as

much as, this is a case compulsory acquisition and just and proper compensation for such acquisition is a must. He submitted that though the Appeal was filed belatedly, in the year 2019, the Appellants have already filed an affidavit in this Court undertaking that they will not claim interest on enhanced compensation, if so granted after re-hearing the Reference on merits, from April 2012 till September 2018 when the present Appeal and delay condonation application was filed. He submitted that, however, the interest for time spent during the pendency of the delay condonation application, which is allowed on 20/01/2025 (period from September 2018 till January 2025), should not be excluded and at least the Appellants are not ready to undertake to waive interest for that period. He submitted that during this period, the Respondent-State had an opportunity of moving the Application and inviting early order on delay condonation. He has relied upon the judgment of **Dhiraj Singh (Dead) through Legal Representatives and Others vs. State of Haryana and Other [(2014) 14 SCC 127]**, in support of his submissions that equities can always be balanced by denying the interest to the Appellants for the appropriate period, for which they did not approach the Court and substantive rights should not be allowed to be defeated on technical ground. He further relied upon the order dated 27/06/2017 passed in FA/1212/2016 in case of **Hanumant Shivagonda Billur & Anr. vs. Special Land Acquisition Officer No. 9, Sangli and Ors** order dated 08/12/2021 passed in FA/572/2021 and the case of **Dhondiram Mahadev Pandre @ Pandhare (Since Deceased) through LRs vs. Special Land Acquisition Officer No. 9, Sangli and Ors**. Order dated 08/12/2021 in FA/572/2021 in support of his submissions. He submits that the order in Padhare's case (supra) is arising from the same village in which present suit property is situated.

5. Learned Addl. G.P Mr. Patil, on the other hand, submitted that though an undertaking is filed by the Appellants, interest for the period for the period during which even the delay condonation application was pending and period for which the Reference will remain pending after remand, should not be saddled upon the State. He has submitted that interest under section 28 of the Land Acquisition Act, which is 15% p.a. from the 2<sup>nd</sup> year from the date of award, cannot be saddled upon the State for the delay caused due to delay condonation, late approaching to the Court, pendency of the proceedings as well as pendency after remand. He relied upon the order 07/10/2011 passed by this Court in FA/563/2001 in **State of Maharashtra vs. Sou. Manik Subhash Nerurkar – Kulkarni and Another** in support of his submissions.

6. I have carefully considered the submissions and I have gone through the records with the assistance of learned Counsel for the parties.

7. At the outset, it must be noted that the Appellants have approached this Court in the present Appeal after a long period of 6 year and 80 days by filing delay condonation Application. Procedural pendency of the delay condonation application is the outcome of delay caused, in the first place. As such, the period for which delay condonation remained pending, cannot be blamed on anybody else but the Appellants, who approached the Appellate Court belatedly, requiring the Court as well as the Respondent-State to engage in the process of its hearing.

8. Perusal of **Hanumant Shivagonda Billur (supra)** indicates that in that case also, this Court allowed the Appeal and remanded the case to Reference Court on the condition that the Appellant will not claim interest on the

enhanced amount from the date of award. Similarly, in **Dhondiram Mahadev Pandhare (supra)** it is seen that undertaking relied upon by this Court indicated that Claimant/Appellant therein had undertaken not to claim interest on the enhanced amount, if any, from the date of impugned award till decision in the Reference Court.

9. In case of **Manik Subhash Nerurkar – Kulkarni (supra)** relied upon by the Respondent-State, it is seen that on remand of Appeal, the interest component, not payable by the State was restricted only to Section 28 of the Land Acquisition Act and the Claimants were held entitled to claim other statutory benefits in accordance with law.

10. In the facts and circumstances narrated above, in my view the State cannot be blamed for the period for which delay condonation application remained pending and further pendency that may occur in the Reference Court after remand. The view taken by this Court in **Manik Subhash Nerurkar – Kulkarni (supra)** appears to be a balanced view, in which only the interest under section 28 of the said Act is held not payable but claimants are held entitled to other statutory benefits in accordance with law.

11. Therefore, considering the overall facts and considering that remand is necessary for decision on merits about compensation, following order will meet the ends of justice. The **Appeal is disposed of** in following terms.

(a) The Appeal is partly allowed.

(b) The impugned judgment and award dated 11/04/2012 passed in Land Acquisition Case No. 89 of 2008 by the Civil Judge, Senior

Division, Sangali is quashed and set aside. The said Reference is restored to the file. Parties to the Reference are entitled to lead further evidence.

(c) In view of the undertaking filed by the Appellants, as well as the view taken above, in the event the Appellants succeed in getting the amount of compensation enhanced in the Reference, the Appellants shall not be entitled to claim interest under section 28 of the said Act from the date the impugned award till the decision by the Reference Court after remand. It is clarified that Appellants will be entitled to claim other statutory benefits in accordance with law.

(d) Hearing of the Reference is expedited. The Reference Court is requested to dispose of the Reference in accordance with law, till end of this year i.e. 31/12/2025.

(e) No order as to the costs.

12. Appellants are at liberty to bring this order to the notice of the Reference Court. All concerned to act on duly authenticated or digitally signed copy of this order.

**(M. M. SATHAYE, J.)**