

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

(1)

CA NO.4733/2012group

CIVIL APPLICATION NO. 4733 OF 2012 (for delay)

IN FAST/8158/2012

WITH

CA/4734/2012 IN FAST/8158/2012 (For stay)

WITH

CA/4735/2012 IN FAST/8181/2012 (For delay)

WITH

CA/4736/2012 IN FAST/8181/2012 (For stay)

WITH

CA/4737/2012 IN FAST/8178/2012 (For delay)

WITH

CA/4738/2012 IN FAST/8178/2012 (For stay)

WITH

CA/4739/2012 IN FAST/8175/2012 (For delay)

WITH

CA/4740/2012 IN FAST/8175/2012 (For stay)

WITH

CA/4741/2012 IN FAST/8184/2012 (For delay)

WITH

CA/4742/2012 IN FAST/8184/2012 (For stay)

THE STATE OF MAHARASHTRA AND ANR

VERSUS

PARSHURAM PANDURANG KENDRE AND ANR

...

A.G.P. for Applicants : Mr. S.P.Dound.

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CORAM : K. K. TATED, J.

Dated: August 28, 2014

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PER COURT :-

1. Heard learned A.G.P. Mr. S.P.Dound for the applicants.

2. All these Civil Applications can be disposed of by common order because the facts stated

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by the applicants in the civil applications are identical.

3. These civil applications are preferred by original respondent / State of Maharashtra for condonation of 995 days delay in filing the First Appeal challenging common judgment and award dated 20th November, 2008, passed by the Civil Judge, Senior Division, Ahmadpur, Camp at Udgir, in Land Acquisition References.

4. Learned A.G.P. submits that in the present proceedings, after scrutinising the proposal forwarded by the Government Pleader, who appeared before the Reference Court, Law and Judiciary Department decided to file First Appeals in this Court. The Law and Judiciary Department, by their letter dated 13th April, 2010, informed to the Office of the Government Pleader at Aurangabad for filing the first appeals. He submits that after scrutinising the papers, which they had received along with the proposal from Law and Judiciary Department, the Office of the Government Pleader learnt that they have not received certified copies of judgments and award passed by the Reference Court, Difference Chart for calculating Court fees,

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typed copies of the judgment and award and the amount towards Court fees. Hence, Office of the Government Pleader on 5.5.2010, called upon the concerned Special Land Acquisition Officer for complying the above mentioned requirements. He submits that the concerned Special Land Acquisition Officer complied the above mentioned requirement on 24th Jan., 2012. He submits that thereafter the applicant filed present First Appeal in this Court on 21st March, 2012.

5. Learned A.G.P. submits that for filing First Appeal on behalf of the Government, they have to take approval from several departments. He further submits that the Special Land Acquisition Officer took some time to provide typed copies of the judgment and award, difference chart for calculating Court fees and requisite amount for payment of Court fees. Hence, there is delay in preferring the First Appeals in this Court. He submits that the Reference Court awarded enhanced compensation in respect of the acquired land without considering the sale deeds on record. He submits that the Reference Court awarded compensation in

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respect of the acquired land at higher side. He submits that the applicant has good chances of success in the present matter.

6. Learned A.G.P. relies on paragraph nos. 3 and 4 of the application for condonation of 995 days delay in preferring the First Appeals which reads thus:

"3. The applicant submit that thereafter, the proposal sent by the concerned A.G.P. was scrutinised by the Office of the Law and Judiciary Department, Aurangabad and thereafter, the office of the Law and Judiciary Department, Aurangabad, forwarded the said proposal to the office of the Government Pleader, High Court Bench at Aurangabad by its letter dt.13.04.2010 for filing appeal."

"4. The applicant submit that, thereafter, the Government Pleader has allotted the said proposal along with other proposals for drafting appeal memo to the concerned A.G.P. on 20.04.2010. The appeal memo immediately drafted. The applicant submit that while scrutinising the said proposal, Difference Chart for calculating Court Fees and typed copies of judgment and order, Court fees were not accompanied with the proposal, therefore, the concerned A.G.P. has communicated the authorities to forward the said copies by letter dt. 05.05.2010. The applicant submit that, in response to the above communications of this office, the typed copies of judgment and order are received on 24.01.2012 and difference chart for calculating Court fees is received on 13.12.2010 and Court fees is received on \_\_\_\_\_. However, the appeal memo itself is drafted immediately but the same could not filed in the Registry of the Hon'ble Court due to non supply of the above stated documents. The applicant submit that, the delay caused in filing of appeal is not intentional but is caused because of administrative difficulty and for the reasons beyond the control of the concerned. The delay is caused unintentionally. "

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7. On the basis of these submissions, learned A.G.P. submits that this Hon'ble High Court be pleased to allow the present Civil Applications for condonation of delay.

8. I heard learned A.G.P. at length. In the present proceedings, the Reference Court passed judgment and award on 20th November, 2008. Thereafter, applicant applied for certified copy on 1st December, 2008. The same was ready on 31st March, 2009, and on same day, it was collected by the applicant. Thereafter, the applicant filed above mentioned first appeals in this Court on 21st March, 2012. Bare reading of paragraph nos. 3 and 4 of the civil application shows that applicant has not explained the delay from the date of receipt of certified copy of impugned judgment and award till filing of First Appeal in this Court. The applicant took nearabout three years from the date of receipt of certified copy in filing first appeals in this Court. It is to be noted that in the matter of C.A.No.4733/2012, the Reference Court awarded enhanced compensation in respect of acquired land to the tune of Rs.16,900/-; in C.A.No.4735/2012, Rs.21,632/-; in CA No.4737/2012, Rs.6,760/- and in

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CA No.4741/2012, Rs.65,980/-; and in CA No.4739/2012, Rs.6,760/-.

9. Our High Court in the matter of **Laxman Divekar Vs. State of Maharashtra 1998 (1) Mh.L.J. 745** held that Court has no power to arbitrarily condone the delay in the name of advancing substantial justice just because the applicant happen to be a Corporation.

10. The Apex Court in the matter of **Damodar Pillai Vs. South Indian Bank Ltd., 2005 (5) ALL M.R. 961 (SC)** held that hardship or injustice is not a ground for extending the period of limitation.

11. Our High Court in the matter of **Special Land Acquisition Officer & Anr Vs. Jose Prezares De Piedade Pinto, 2006 (2) Bom.C.R. 773** held that delay caused due to movement of file from one table to another cannot be a reason for condonation of delay.

12. The Apex Court in the matter of **Pundlik Jalam Patil Vs. Ex.Engg.Jalgaon Medium Project and Ors., 2008(6) BCR 513** held that unless and until sufficient cause is shown, inordinate delay should

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not be condoned.

13. The Apex Court in the matter of **Oriental Aroma Chemical Industries Limited Vs. Gujarat Industrial Development Corporation** reported in **2010 (5) SCC 459**, held that in the absence of sufficient cause, Court should not condone the delay.

14. The Apex Court in the case of **B.Madhuri Gaud Vs. B.Damodar Reddy, 2012 (12) SCC 693** held that if sufficient cause is not shown, delay should not be condoned.

15. Recently, the Apex Court in the matter of **Esha Bhattacharajee Vs. Managing Committee of Raghunathpur Nafar Academy 2013 (12) S.C.C. 450** held that if sufficient cause is not shown, application for condonation of delay be rejected.

16. Considering the reasons disclosed by the applicant in the Civil Applications for condonation of delay, the amount involved in the present proceedings and the law declared by the Apex Court, I am of the opinion that the applicant failed to disclose sufficient cause for condonation of

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inordinate delay.

Hence, civil applications for condonation of delay stand dismissed.

17. In view of dismissal of applications for condonation of delay, all the civil applications for stay do not survive and stand dismissed.

18. In view of rejection of Civil Applications for condonation of delay, registration of first appeals stands rejected.

( K. K. TATED, J. )

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