

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

CIVIL APPLICATION NO.15757 OF 2011 WITH  
CIVIL APPLICATION NO.15758 OF 2011 IN  
FIRST APPEAL ST.NO.29469 OF 2011

The State of Maharashtra

..Applicant

Versus

Mhasu Dhondiba Narwade  
died through L.Rs.  
Vitthal Mhasu Narwade & Ors.

..Respondents

- WITH -

CIVIL APPLICATION NO.15401 OF 2011 WITH  
CIVIL APPLICATION NO.15402 OF 2011 IN  
FIRST APPEAL ST.NO.29472 OF 2011

WITH

CIVIL APPLICATION NO.15403 OF 2011 WITH  
CIVIL APPLICATION NO.15404 OF 2011 IN  
FIRST APPEAL ST.NO.29505 OF 2011

WITH

CIVIL APPLICATION NO.15405 OF 2011 WITH  
CIVIL APPLICATION NO.15406 OF 2011 IN  
FIRST APPEAL ST.NO.29481 OF 2011

WITH

CIVIL APPLICATION NO.15407 OF 2011 WITH  
CIVIL APPLICATION NO.15408 OF 2011 IN  
FIRST APPEAL ST.NO.29512 OF 2011

WITH

CIVIL APPLICATION NO.15409 OF 2011 WITH  
CIVIL APPLICATION NO.15410 OF 2011 IN  
FIRST APPEAL ST.NO.29487 OF 2011

WITH

CIVIL APPLICATION NO.15411 OF 2011 WITH  
CIVIL APPLICATION NO.15412 OF 2011 IN  
FIRST APPEAL ST.NO.29478 OF 2011

WITH

CIVIL APPLICATION NO.15413 OF 2011 WITH  
CIVIL APPLICATION NO.15414 OF 2011 IN  
FIRST APPEAL ST.NO.29474 OF 2011

WITH

CIVIL APPLICATION NO.15415 OF 2011 WITH  
CIVIL APPLICATION NO.15416 OF 2011 IN  
FIRST APPEAL ST.NO.29484 OF 2011

WITH

CIVIL APPLICATION NO.15417 OF 2011 WITH  
CIVIL APPLICATION NO.15418 OF 2011 IN

FIRST APPEAL ST.NO.29465 OF 2011  
WITH  
CIVIL APPLICATION NO.15419 OF 2011 WITH  
CIVIL APPLICATION NO.15420 OF 2011 IN  
FIRST APPEAL ST.NO.29523 OF 2011  
WITH  
CIVIL APPLICATION NO.15421 OF 2011 WITH  
CIVIL APPLICATION NO.15422 OF 2011 IN  
FIRST APPEAL ST.NO.29493 OF 2011  
WITH  
CIVIL APPLICATION NO.15423 OF 2011 WITH  
CIVIL APPLICATION NO.15424 OF 2011 IN  
FIRST APPEAL ST.NO.29532 OF 2011  
WITH  
CIVIL APPLICATION NO.15125 OF 2011 WITH  
CIVIL APPLICATION NO.15126 OF 2011 IN  
FIRST APPEAL ST.NO.29496 OF 2011  
WITH  
CIVIL APPLICATION NO.15127 OF 2011 WITH  
CIVIL APPLICATION NO.15128 OF 2011 IN  
FIRST APPEAL ST.NO.29500 OF 2011  
WITH  
CIVIL APPLICATION NO.15429 OF 2011 WITH  
CIVIL APPLICATION NO.15430 OF 2011 IN  
FIRST APPEAL ST.NO.29529 OF 2011  
WITH  
CIVIL APPLICATION NO.15431 OF 2011 WITH  
CIVIL APPLICATION NO.15432 OF 2011 IN  
FIRST APPEAL ST.NO.29518 OF 2011  
WITH  
CIVIL APPLICATION NO.15433 OF 2011 WITH  
CIVIL APPLICATION NO.15434 OF 2011 IN  
FIRST APPEAL ST.NO.29526 OF 2011

Mrs V.A.Shinde, AGP for applicant

Mr R.D.Bhalerao, Advocate for respondents - claimants

**CORAM : K.K. TATED, J.**

**DATE : 30<sup>th</sup> September 2014**

**PER COURT**

Heard learned Counsel for the parties.

2. These civil applications are preferred by State of Maharashtra for condonation of 1192 days delay in filing first

appeals challenging the judgment and award dated 25.4.2008 passed by learned Civil Judge, Senior Division, Sangamner in L.A.Rs alongwith civil applications for stay.

3. In the present proceedings, the Special Land Acquisition Officer issued notification under Section of Land Acquisition Act dated 5.4.1996 for acquiring respondents/claimants' land for the construction of percolation tank at village Sai Khindi, Taluka Sangamner, District Ahmednagar. After following due process of law, Special Land Acquisition Officer declared award dated 16.10.1998 and awarded compensation in respect of acquired land between the range of Rs.57,000/- to Rs.1,05,000/- per hectare for jirayat Class-I to jirayat Class-IV lands. Being aggrieved by the said award, the respondents - original claimants preferred references under Section 18 of the Land Acquisition Act. In those references, the claimants placed on record various sale deeds. The Reference Court, relying on sale deed at Exh.25 held that respondents - original claimants are entitled for compensation in respect of acquired land at the rate of Rs.1,40,000/- per hectare. Hence, these first appeals are preferred by State of Maharashtra.

4. The learned A.G.P. Mrs, Shinde for applicant submits that the office of the District Government Pleader immediately applied for certified copies of judgment and award on 6.6.2008.

Those were ready on 23.6.2008 and were collected on same day.

5. The learned A.G.P. submits that as per procedure prescribed for filing appeals on behalf State of Maharashtra, concerned District Government Pleader who appeared before the Reference Court, forwarded his opinion to the Law and Judiciary Department for preferring appeals in this Court. The Law and Judiciary Department, considering the opinion of the District Govt. Pleader and perusing the impugned judgment and award passed by Reference Court, decided to challenge the same before this Court. She submits that Law and Judiciary Department, by their letter dated 15.4.2010 informed the Government Pleader at Aurangabad to prefer first appeals in this Court.

6. The learned A.G.P. for applicant submits that as soon as they received instructions from Law and Judiciary Department, office of the Government Pleader at Aurangabad assigned the matters to concerned Assistant Govt. Pleader on 20.4.2010 for drafting appeal memos. She submits that at the time of scrutinising the appeal proposal and papers, office of the Government Pleader learnt that they have not received certified copies of judgment and award, difference chart, typed copies of judgment and requisite amount for payment of court fees.

Hence, the office of the Government Pleader at Aurangabad, by their letter dated 23.4.2010 called upon concerned Special Land Acquisition Officer to comply the above mentioned requirements.

7. The learned A.G.P. submits that office of the Government Pleader at Aurangabad received certified copies of impugned judgment and award, difference chart for calculating court fees, typed copies of judgment on 14.5.2010 and requisite amount for payment of court fees on 2.4.2011. She submits that thereafter they immediately filed first appeals in this Court on 16.11.2011.

8. The learned A.G.P. for applicant submits that because of the procedure prescribed for filing first appeal on behalf of State of Maharashtra, there is delay in preferring these appeals. She submits that as per procedure, the concerned District Government Pleader who appears before the Reference Court has to submit his opinion to the Law and Judiciary Department. Thereafter, Law and Judiciary Department considers and takes decision whether appeal to be preferred or not. She submits that in filing first appeal, they have to pay court fees. Therefore, the concerned Government Pleader has to call upon the concerned Officer to deposit the amount for payment of Court fees and other expenses. She submits that for two years proposal was pending before the Law and Judiciary Department.

She submits that even the concerned Special Land Acquisition Officer took near about one year in complying the requirements for filing first appeals in this Court.

9. The learned A.G.P. submits that in the interest of justice, this Honourable Court be pleased to condone the delay and matters be heard on their own merits.

10. On the other hand, the learned Counsel Mr Bhalerao, appearing for respondents - original claimants vehemently opposed the present civil applications. He submits that applicant has not shown sufficient cause for condonation of inordinate delay of 1192 days in filing these first appeals. He submits that though the applicant received certified copies of impugned judgment and award on 23.6.2008, Law and Judiciary Department instructed concerned Government Pleader at Aurangabad to file these first appeals, on 15.4.2010. There is no explanation for these two years delay on the part of Law and Judiciary Department. He further submits that though the office of the Government Pleader at Aurangabad received the papers in the month of April 2010, they filed the first appeals in this Court on 16.11.2011. Even, there is no cogent reasons given by the applicant in civil applications for delay of more than one year and six months on the part of office of the Government Pleader in filing these first appeals. He further submits that though the

Reference Court decided the references by judgment and award on 25.4.2008, till today, respondents - claimants have not received enhanced compensation. On the basis of those submissions, learned Counsel for respondents - original claimants submits that there is no substance in these civil applications and same are required to be dismissed with costs.

11. I have heard both the sides at length. Admittedly, in the present civil applications, applicant has not shown why the Law and Judiciary Department required two years to take decision for filing the first appeals in this Court. Even, the concerned Special Land Acquisition Officer took near about 8 to 10 months in providing typed copies of judgment and requisite amount for payment of court fees. There is no explanation in civil applications for this delay. Not only that, even the office of Government Pleader at Aurangabad took near about nine months for filing these first appeals from the date of receipt of certified copies and requisite amount of Court fees. There is no explanation and/or any affidavit from the office of Government Pleader for explaining this nine months' delay on their part.

12. 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

13. 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.

14. 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.

15. 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 not be condoned.

16. The Apex Court in the matter of **Commissioner, Nagar Parishad, Bhilwara Vs. Labour Court, Bhilwara & Anr. 2009 (3) SCC Pg. 525** held that while dismissing an Appeal on the ground of limitation, going into the merits of the case is not allowed.

17. 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.

18. The Apex Court in the matter of **Maniben Devraj Shah Vs. Municipal Corporation of Brihan Mumbai**, reported in **2012 (5) SCC 157**, held that no premium be given for total lethargy or utter negligence of State officers/machinery/agency/instrumentality and condonation of delay caused by such office cannot be allowed as a matter of course by accepting the plea that dismissal on the ground of limitation will cause injury to public interest.

19. 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.

20. The Apex Court in the matter of **office of Chief Post Master General and Ors. Vs. Living Media India Ltd. And Anr, - 2012 ALL SCR 892**, held that delay attributed in personal machinery and methodology, cannot be condoned in view of modern technology use.

21. Recently, the Apex Court in the matter of **Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy 2013 (12) SCC 450** held that

if sufficient cause is not shown, application for condonation of delay be rejected.

22. Considering the submissions made by learned A.G.P. for applicant, averments made in civil applications and law laid down by the Apex Court, I hereby held that the applicant failed to show sufficient cause for condonation of inordinate delay of 1192 days in filing the first appeals. Hence, all civil applications for condonation of delay stand rejected.

23. In view of rejection of civil applications for condonation of delay, nothing survives in civil applications for stay. Those civil applications also stand rejected.

24. In view of dismissal of civil applications for condonation of delay, nothing survives in first appeals. Hence, registration of first appeals stand rejected.

**( K.K. TATED, J.)**

(vvr/15757.11ca)