

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**962 CIVIL APPLICATION NO.11303 OF 2018
IN FAST/1976/2018**

RAMESH GANPATRAO DESHPANDE
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...

**WITH
CA/11304/2018 IN FAST/2055/2018
WITH CA/11305/2018 IN FAST/2057/2018
WITH CA/11306/2018 IN FAST/2059/2018**

...

**966 CIVIL APPLICATION NO.1318 OF 2019
IN FAST/2165/2019**

BAPU KONDIBA KAVHALE (DIED) THR. LRS. MANDODARI AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...

**WITH
CA/1319/2019 IN FAST/2169/2019
WITH CA/1320/2019 IN FAST/2167/2019
WITH CA/1321/2019 IN FAST/2137/2019**

...

**967 CIVIL APPLICATION NO.1328 OF 2019
IN FAST/2117/2019**

GULAB VENKATRAO KAVHALE (DIED) THR. LRS. PARUBAI AND
ANR
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...

**WITH
CA/1329/2019 IN FAST/2163/2019
WITH CA/1330/2019 IN FAST/2161/2019**

...

Advocate for Applicants : Shri Vitthal D. Bhise
AGP for Respondents – State : Shri A.M.Phule
Advocate for Respondent – Acquiring Body :
Smt. Sunita Dasharat Shelke

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**973 CIVIL APPLICATION NO.1188 OF 2013
IN FAST/32034/2012**

NANABHAU APPARAO KAVALE THR. GPA CHANDRAKANT
NANABHAU KAVALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
WITH

**FIRST APPEAL NO.4476 OF 2017
WITH WITH CA/1189/2013 IN FAST/32083/2012 WITH
CA/1219/2013 IN FAST/33548/2012 WITH CA/1220/2013 IN
FAST/33587/2012 WITH CA/1222/2013 IN FAST/31917/2012
WITH CA/4885/2013 IN FAST/33747/2012 WITH
CA/4886/2013 IN FAST/33749/2012 WITH CA/4887/2013 IN
FAST/33651/2012 WITH CA/4888/2013 IN FAST/33753/2012
WITH CA/3587/2014 IN FAST/2950/2014 WITH
CA/4629/2014 IN FAST/2594/2014 WITH CA/2504/2015 IN
FAST/14866/2014 WITH CA/2505/2015 IN FAST/14872/2014
WITH CA/2506/2015 IN FAST/14864/2014 WITH
CA/2507/2015 IN FAST/14868/2014 WITH CA/2508/2015 IN
FAST/14874/2014 WITH CA/2509/2015 IN FAST/14870/2014
WITH CA/7604/2015 IN FAST/14710/2014 WITH
WITH FA/4489/2017 WITH CA/9283/2017 IN
FAST/15014/2014 WITH CA/9284/2017 IN FAST/15060/2014**

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Advocate for Appellants : Shri Ajeet B. Kale, Shri C.V.Korhalkar
and Shri Kailas B.Jadhav

AGP for Respondents – State : Shri P.M.Kulkarni

Advocate for Respondents – Acquiring Body :

Shri Ram B.Deshpande, Shri P.G.Rodge, Shri S.P.Sonpawale, Shri
S.G.Bhalerao, Shri R.C.Patil and Smt.S.D.Shelke

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CORAM : P.R.BORA, J.

DATE: 31st January, 2019

PER COURT:-

1 All these civil applications are taken together for hearing since all these matters are arising out of acquisition made for Lower Dudhana Project. The lands, which are involved in these

mattes are from village Kedarwakdi. The delay, which has occurred in filing the appeals by the claimants in the present matters ranges between minimum of 560 days to maximum of 4819 days.

2 It is commonly argued by the learned Counsel appearing for the respective applicants that delay has been caused mainly because of financial constraints and lack of awareness of period of limitation for filing the appeals. Further, it is also commonly submitted by the learned Counsel for the applicants that the applicants will not claim interest for the period of delay in the event of their success in appeals. It is further commonly argued that in some connected matters, this Court has condoned the delay of more than 2900 days and not only condoned the delay but subsequently the appeals have also been allowed and amount of compensation has been enhanced. The copies of all such orders passed in those matters are placed on record. The learned Counsel submitted that in all these matters this Court while condoning the delay has dis-entitled the applicants from claiming the interest for the period of delay and thereafter has decided the appeals on merits.

3 The orders passed by this Court in Civil Application

No.2926 of 2013 in First Appeal Stamp No.1409 of 2013 with connected matters, the order passed in civil Application No. 11899 of 2016 in First Appeal No.22434 of 2016 with connected matters, the order passed in First Appeal No.2733 of 2013 with connected appeals and the Judgment passed in First Appeal No.4083 of 2016 with connected appeals, are placed on record. Referring to the earlier orders passed by this Court and Judgments delivered in some appeals, the learned Counsel prayed for condoning the delay in the present matter.

4 The learned Counsel appearing for the Acquiring Body, though have opposed for condoning the delay stating that huge delay has not been appropriately explained, have not disputed that in connected matters delay of more than 2900 days is condoned, and thereafter, the appeals have been decided and the compensation has been enhanced in those matters. In the alternative, it is contended by the learned Counsel that if this Court inclines to condone the delay, the appellants - claimants shall not be made entitled for the interest of the period of delay on the enhanced amount of compensation

5 Considering earlier orders passed in the connected matters, it appears to me that same criteria will have to be

applied while deciding the present matters. The reasons, which were assigned in the earlier applications were similar to the justification given in the present applications by the applicants. The reasons as are stated in the applications cannot be outrightly rejected. Moreover, the applicants – appellants have undertaken that they will not claim interest of the period of delay on the enhanced amount of compensation in the event of their success in the appeals .

6 In view of above, the following order is passed:-

ORDER

- I) The applications for condonation of delay are allowed.
- II) Delay caused in filing the present appeals is condoned.
- III) All the applications for condonation of delay stand disposed of.
- IV) The appeals be registered in accordance with law.
- V) After registration of appeals, issue notice to the respondents. Respective learned Counsel for the

respective respondents waive service of notice for the said respondents in respective matters. Respective AGPs waive service of notice for the State in respective matters. Service complete.

VI) It is clarified that in the event of their success in the appeals, the appellants shall not be entitled for the interest of the period of delay on the enhanced amount of compensation.

VII) Copy of the present order be placed alongwith the papers of appeals.

VIII) List all these appeals for final disposal at the admission stage on 06.02.2019, high on board.

(P.R.BORA)
JUDGE

SPT

