

A THE EXECUTIVE ENGINEER, NIMNA DUDHNA PROJECT,
SELU, DISTRICT PARBHANI, MAHARASHTRA

v.

THE STATE OF MAHARASHTRA & OTHERS ETC. ETC.

B (Civil Appeal Nos. 246-255 of 2020)

JANUARY 15, 2020

[ASHOK BHUSHAN AND M. R. SHAH, JJ.]

- Land Acquisition – Statutory benefits and interest for the delayed period in approaching the High Court – Respondents/ original claimants claimed parity in compensation with other land owners – There was a huge delay of five and a half years in preferring the appeals by the original claimants before the High Court challenging the judgment and award passed by the Reference Court – The High Court enhanced the amount of compensation at par with the other land owners/claimants and condoned the delay of five and a half years – Appellants contended that there was a huge delay and same was not required to be condoned by the High Court – Appellants further contended that the High Court ought not have awarded the statutory benefits and the interest for the delayed period – On appeal, held: Considering the fact that in other matters the delay was condoned, the High Court condoned the delay and entertained the appeals and enhanced the amount of compensation at par with other land owners/claimants whose lands were acquired for the same project vide the same notification – There was no fault with the order passed by the High Court in condoning delay – Further, the order condoning the delay had attained finality as the same was not challenged – Insofar as the statutory benefits and the interest for the delayed period is concerned, while condoning the delay in preferring the appeal, the Supreme Court in various cases has denied the interest on the enhanced amount of compensation for the period of delay in approaching the High Court – Merely because at the time of condoning delay no such condition was imposed that the claimants shall not be entitled to the interest on the enhanced amount of compensation for the period of delay, the appellant who was*

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otherwise a public body cannot be saddled with liability to pay the interest for the period of delay, which was not at all attributed to them – Under the circumstances, the order of the High Court modified to the extent denying the interest to the respondents/original claimants on the enhanced amount of compensation for the period of delay in preparing appeals.

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Partly allowing the appeals, the Court

HELD: 1. It is not in dispute that there was a huge delay of five and a half years in preferring the appeals before the High Court challenging the judgment and award passed by the Reference Court. However, considering the fact that in other matters the delay was condoned, the High Court condoned the delay and entertained the appeals and enhanced the amount of compensation at par with other land owners/claimants whose lands were acquired for the same project vide the same notification. Therefore, as such, no fault can be found with the order passed by the High Court condoning the delay. It is required to be noted that as such the order condoning the delay has attained finality as the same was not challenged by the appellant at the relevant time. [Para 4] [88-D-F]

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2. Whether for the delayed period the claimants shall be entitled to the statutory benefits and the interest under the Land Acquisition Act?

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2.1 The aforesaid issue is not *res integra*. In the case of *Dhiraj Singh (D) through LRs v. State of Haryana*, while condoning the delay in preferring the appeal before this Court, while enhancing the amount of compensation at par with other similarly situated land owners, this Court has denied the interest on the enhanced amount of compensation for the period of delay in approaching the High Court by way of LPAs. Similar view is expressed by this Court in the case of *K. Subbarayudu v. Special Deputy Collector (LA)* and while condoning the delay in preferring the appeal, this Court has denied the interest for the period of delay. Merely because at the time of condoning the delay no such condition was imposed that the claimants shall not be entitled to the interest on the enhanced amount of compensation for the

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- A **period of delay, the appellant who is otherwise a public body cannot be saddled with the liability to pay the interest for the period of delay, which is not at all attributed to them. Under the circumstances, the common impugned judgment and order passed by the High Court awarding the interest on the enhanced amount of compensation for the period of delay in preferring the appeals deserve to be quashed and set aside and the impugned common judgment and order passed by the High Court is required to be modified to the aforesaid extent. [Para 4.1] [88-G-H; 89-A-C]**
- B ***Dhiraj Singh (D) through LRs v. State of Haryana (2014) 14 SCC 127 ; K. Subbarayudu v. Special Deputy Collector (LA) (2017) 12 SCC 840 : [2017] 6 SCR 524 – relied on.***

Market Committee, Hodal v. Krishan Murari (1996) 1 SCC 311 : [1995] 4 Suppl. SCR 787 ; Collector (LA) v.

- C ***Katiji (1987) 2 SCC 107 : [1987] 2 SCR 387 – referred to.***
- D ***[1995] 4 Suppl. SCR 787 referred to Para 2***
- [1987] 2 SCR 387 referred to Para 2***
- (2014) 14 SCC 127 relied on Para 2***
- [2017] 6 SCR 524 relied on Para 2***

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 246-255 of 2020

- F From the Judgment and Order dated 17.07.2017 of the High Court of Judicature at Bombay, Bench at Aurangabad in First Appeal Nos. 4083-4092 of 2016.

Uday B. Dube, Advs. for the Appellant.

- G Sushil Karanjkar, Sachin Patil, Atul Babasaheb Dakh, Advs. for the Respondents.

The Judgment of the Court was delivered by A

M. R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned common judgment and order dated 17.07.2017 passed by the High Court of Judicature at Bombay, Bench at Aurangabad in First Appeal Nos. 4083-4092 of 2016 whereby the High Court has partly allowed the said first appeals preferred by the original claimants and has enhanced the amount of compensation for the lands acquired, the acquiring body – The Executive Engineer, Nimna Dudhna Project has preferred the present appeals. B

2. Learned Advocate appearing on behalf of the appellant has vehemently submitted that as such there was a delay of five and a half years in preferring the first appeals. It is submitted that assuming that the High Court is justified in enhancing the amount of compensation at par with the other land owners/claimants, as there was a huge delay of five and a half years, the High Court ought not to have saddled the interest liability for the period of delay upon the appellants. It is submitted that for the delayed period the claimants shall also not be entitled to any statutory benefits. C

2.1 It is submitted by the learned Advocate that as such there was a huge delay of five and a half years and therefore as such the same was not required to be condoned by the High Court. It is submitted that in any case the High Court is not justified in granting the statutory benefits and the interest on the enhanced amount of compensation for the period of delay. In support of his above submission, learned counsel appearing on behalf of the appellant has heavily relied upon the decisions of this Court in the cases of *Market Committee, Hodal v. Krishan Murari*, (1996) 1 SCC 311; *Collector (LA) v. Katiji*, (1987) 2 SCC 107; *Dhiraj Singh (D) through LRs v. State of Haryana*, (2014) 14 SCC 127; and *K. Subbarayudu v. Special Deputy Collector (LA)*, (2017) 12 SCC 840. F

3. While opposing the present appeals, learned Advocate appearing on behalf of the respondents/original claimants has vehemently submitted that as such the original claimants claimed the parity in compensation with other land owners. It is submitted that at the time when the High G

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- A Court condoned the delay, the same was not conditional, namely, to deny the statutory benefits and the interest for the interregnum period – delayed period. It is submitted that the order condoning the delay had attained finality and therefore subsequently it is not open for the appellant to submit that the High Court ought not to have awarded the statutory benefits and the interest for the delayed period.
- B 3.1 It is further submitted by the learned Advocate appearing on behalf of the respondents/original claimants that even otherwise as per the settled proposition of law, all claimants/land owners are entitled to the same compensation for the land acquired for the same project vide the same notification.
- C 3.2 Making the above submissions, it is prayed to dismiss the present appeals.
- 4. We have heard the learned counsel for the respective parties at length.
- D At the outset, it is required to be noted that the dispute in the present appeals is only with respect to award of statutory benefits and interest for the delayed period. It is not in dispute that there was a huge delay of five and a half years in preferring the appeals before the High Court challenging the judgment and award passed by the Reference Court.
- E However, considering the fact that in other matters the delay was condoned, the High Court condoned the delay and entertained the appeals and enhanced the amount of compensation at par with other land owners/claimants whose lands were acquired for the same project vide the same notification. Therefore, as such, no fault can be found with the order passed by the High Court condoning the delay. It is required to be noted that as such the order condoning the delay has attained finality as the same was not challenged by the appellant at the relevant time. Be that as it may, the issue which is required to be considered is, whether for the delayed period the claimants shall be entitled to the statutory benefits and the interest under the Land Acquisition Act?
- F 4.1 The aforesaid issue is not *res integra*. In the case of *Dhiraj Singh (supra)*, while condoning the delay in preferring the appeal before this Court, while enhancing the amount of compensation at par with other similarly situated land owners, this Court has denied the interest on
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the enhanced amount of compensation for the period of delay in approaching the High Court by way of LPAs. Similar view is expressed by this Court in the case of *K. Subbarayudu (supra)* and while condoning the delay in preferring the appeal, this Court has denied the interest for the period of delay. Merely because at the time of condoning the delay no such condition was imposed that the claimants shall not be entitled to the interest on the enhanced amount of compensation for the period of delay, the appellant who is otherwise a public body cannot be saddled with the liability to pay the interest for the period of delay, which is not at all attributed to them. Under the circumstances, the common impugned judgment and order passed by the High Court awarding the interest on the enhanced amount of compensation for the period of delay in preferring the appeals deserve to be quashed and set aside and the impugned common judgment and order passed by the High Court is required to be modified to the aforesaid extent.

4.2 In view of the above and for the reasons stated above, all these appeals are allowed in part. The common impugned judgment and order passed by the High Court is modified to the extent denying the interest to the respondents/original claimants on the enhanced amount of compensation for the period of delay in preferring the appeals. Rest of the judgment and award passed by the High Court is confirmed. No costs.

Ankit Gyan

Appeals partly allowed.