

म.औ.वानखेडे,
उपसचिव (भूसंपादन)

अ.शा.प.क्र.संकिर्ण/१४१/प्र.क्र.२०/अ-४,
महसुल व वन विभाग,
मंत्रालय मुंबई ३ ४०० ०३२
दिनांक १४/२/२००८

विषय :-भूसंपादन अधिनियम १८९४ कलम १८ व २८ अ(३) नुसार
दिवाणी न्यायालयाने मंजूर केलेल्या वाढीव मोबदला विरोधात
मा.उच्च न्यायालयात अपील दाखल करणेसाठी होत असलेल्या अक्षम्य
विलंबाबत
सिव्हील ॲप्लीकेशन क्रमांक २४२२/०७ (प्रथम अपील स्टॅम्प
क्र.११२४१/०७ महाराष्ट्र शासन विरुद्ध विठ्ठल गणू म्हात्रे व इतर) ४
सिव्हील ॲप्लीकेशन

महोदय,

उपरोक्त विषयांकित सिव्हील ॲप्लीकेशनमध्ये मा.उच्च न्यायालय, मुंबई यांनी दिनांक ४/२/२००८ रोजी दिलेल्या अंतरीम आदेशाचे अवलोकन व्हावेत. आदेशाची प्रत सोबत जोडली आहे.

२. विशेष भूसंपादन अधिकारी, मेट्रो सेंटर क्र.१,पनवेल यांनी सिव्हील ॲप्लीकेशन क्र.३४२२/०७(प्रथम अपील स्टॅम्प क्र.११२४१/०७) ३४२४/०७ (प्रथम अपील स्टॅम्प क्र.११२४६/०७),३४३६/०७ (प्रथम अपील क्र.११२६०/०७) न्यायालयात प्रथम अपील दाखल करणेसाठी सुमारे ७२२ दिवस व त्यापेक्षा जास्त कालावधी लागलेला आहे. त्यावर मा.उच्च न्यायालयाने दिनांक ४/२/२००८ रोजीच्या अंतरीम आदेशात अशा प्रकारे विलंबाने कार्यवाही केल्यामुळे मा.उच्च न्यायालयाचे शासनाविरुद्ध गैरसमज निर्माण होवू,तीव्र नाराजी व्यक्त केलेली आहे.

३. तरी प्रस्तुत प्रकरणास झालेल्या विलंबास दोषी असलेल्या अधिकारी व कर्मचाऱ्यांवर जबाबदारी निश्चित करावी तसेच यापुढे असे प्रकार घडणार नाही याबाबत संबंधितांना आपल्या स्तरावर सूचना देण्यात याव्यात. तसेच विशेष भूसंपादन अधिकारी, मेट्रो सेंटर क्रमांक १ व ३ या दोन्ही कार्यालयाची तपासणी करावी.

४. सबब वाढीव मोबदल्याच्या प्रकरणात प्रथम अपील विहित मुदतीत मा.उच्च न्यायालयात दाखल होणेसाठी दक्षत घेण्यात येईल व प्रस्तुत प्रकरणी कोणत्याही परिस्थितीत नेमून दिलेल्या दिनांकास मा.उच्च न्यायालयात आवश्यक त्या माहितीसह संबंधितांना दिनांक २०/२/२००८ रोजी उपस्थित राहण्याच्या सूचना देण्यात याव्यात ही विनंती.

आपला

सही /-

(म.औ.वानखेडे)

प्रति,

श्री.निपुण विनायक

जिल्हाधिकारी

रायगड,अलिबाग

प्रत :-जिल्हाधिकारी जळगांव

मा.उच्च न्यायालय मुंबई यांचे दिनांक ४/२/२००८ रोजीचे अंतरीम आदेशाची प्रत सोबत जोडलेली आहे. आपल्या अधिपत्या खालील सर्व संबंधितांना विहित मुदतीत मा.उच्च न्यायालयात अपील दाखल करणेसाठी सूचना देण्यात याव्यात.

BY HAND

BY Fax

Most urgent

TIME LIMIT

COURT MATTER

No.Civil/ /2008

Office of the

Government Pleaer,High Court,

1st floor Old P.W.D.Building

Mumbai

Dated 06/02/2008

To.

1. The Law Secretary
Law & Judiciary Department
Mantralaya, Mumbai
2. The Solicitor of Government (M.L.)
Law & Judiciary Department
Mantralaya, Mumbai
3. The District Government Pleader
Raigad at Alibag.
Dist.Raigad
4. The Special Land Acquisition Officer
Metro Centre NO.1 Panvel,
Dist.Raigad
5. The Deputy Secretary,
Fevenue and Forest Department
Mantralaya, Mumbai
6. The Collector of Raigad at Alibag
Dist.Raigad
7. The Chief Development Officer,
CIDCO Bhavan,
New Bombay

Sub :- Civil Appl.No.3422/2007

In First Appeal St.No.11241/2007

State Vs.Vithal Genu Mhatre & Ors.

&

Civil Appl.No.3424/2007

In First Appeal St.No.11246/2007

State Vs.Mahadeo J. Mhatre & Ors.

&

Civil Appl.No.3426/2007

In First Appeal St.No.11260/2007

State Vs.Hasha Ganpat Patil & Ors

&
Civil Appl.No.3428/2007
In First Appeal St.No.11255/2007
State Vs.Vithu Kalya Govair & Ors
&
Civil Appl.No.3430/2007
In First Appeal St.No.11251/2007
State Vs.Shankar H.Chipalekar & Ors

Sir,

This is to inform you that as per instructions from Law & Judiciary Department By Resolution No.1079/M dated 27/06/2005, the office of the Government Pleader, High Court (A.S.) Mumbai filed First Appeal on 04.05.2007 against the impugned Judgment and Award dated 02.11.2004 passed by Joint Civil Judge and Senior Division, Raigad. In the above mentioned matters Special Land Acquisition Officer issued notification under Section 4 on Land Acquisition Act dated 08.02.1970 for acquiring Respondents/Orig. Claimants for New Bombay Project from Village Pannel, Taluka Pannel, District,Raigad. After following due process of Law, the Special Land Acquisition Officer declared Award under Section 11 of Land Acquisition Act on 28.03.81 and awarded compensation in respect of acquired land @ Rs.1.50 per sq.meter. There after the Original Claimants preferred reference under Section 25(A) of Land Acquisition Act on 15.01.1998 on the basis of previous Judgment in LAR No.595/1986. In the said reference Special Land Acquisition Officer passed Award on 06.02.2001 and awarded compensation in respect of the acquired land @ 8/- per sq.meter.

Being aggrieved by the said Award under Section 28(A) of Land Acquisition Act Original Claimants preferred reference under section

28(A)3 of Land Acquisition Act. In the said reference, reference court, Awarded enhanced compensation in respect of the acquired land @ Rs.29 per sq.meter by Judgment and Award dated 02.11.2004

Please note that there was delay in filing the above mentioned First Appeals in this Honble High Court. Therefore we preferred Civil Application for condonation of Delay. In most of the matters delay is more than 722 days. For your ready reference we are forwarding herewith copies of Civil Application preferred by us for Condonation of delay.

All these matters were on board before Honble Shri Chief Justice and Shri Justice J.P.Devdhar on 04.02.2008. At that time after hearing both sides the Honble Court by order dated 04.02.2008 issued show cause notice to Government Officer to explain why action should not be taken against them for inordinate delay. For your ready reference we are forwarding herewith copy of said order dated 04.02.2008. Please note that the above mentioned matters are kept on board on 20.02.2008. You Have to file your reply before that as per order.

So Please arrange to send your instructions in writing to this department in any case, on or before 12.02.2008

Thanking You.

Yours faithfully,

Sd/-xxxx
(K.K.Tated, Addl.AGP)
High Court (A.S.)Mumbai

P.C. :

1. This appeal and connected appeals preferred by the State Government are barred by time. Delay in filling these appeals are more than three years and minimum is 722 days. It is a settled principle of law that, once the appeal is barred by time, right accrues to the other side to whom the benefits have accrued. Besides causing serious prejudice to the right of the Respondents in the present appeals, Officials of the Government have caused serious financial loss to the state exchequer and have imposed upon common income tax payer, liability to pay, when the same could have been easily avoided by exercising due diligence.

2. We are aware that the Government may not act as expeditiously as private person would, but the Government is expected to act properly and in consonance with the known principles of governance. Inaction which results in serious financial loss to the Government is due to laxity in the administration of Government. It is unfortunate that even if we take the averments made in this application to be correct on their face value, still there is not even a whisper as to what steps were there is not even a whisper as to what steps were taken by any department from 5-7-2005 till 7-4-2007.

3. The statutory liability of payment of interest in terms of section 34 of the Land Acquisition Act arises and would continue to create burden on the citizens of the country without any fault being attributable to the citizens directly or even indirectly. In the aforesaid circumstances, before we consider the question as to whether such inordinate delay should or should not be condoned, we issue show cause notice to the State Government Officials, who did not act in the matters and created huge liability on the State, as to why they should not be directed to pay interest payable to the claimants for all these period.

4. Let reply to the show-cause notice be filled within two weeks from today. The State Government may inform all the concerned officials, the order of this court.

5. We may further indicate clearly that the principle of public accountability is applicable to the administrative actions. Executive is under obligation to work in a proper manner and act to the expected standards causing least prejudice to the interest of the State.

6. Stand over to 20th February, 2008

CHIEF JUSTICE