

ORDER BELOW EXH.16

The respondent No. 1 and 2 i.e. State government and LAO moved present application and prayed for condonation of delay and permission to file their W.S. on record.

2. The claimants filed say and contended that there is delay of 7 years for moving present application, so also without setting aside exparte order this application is not tenable. Application is not supported by affidavit, hence they prayed for rejection of present application.

3. Perused record. It reveals that on 18/06/2016 the exparte order has been passed against respondent No. 1 and 2. Thereafter matter remained pending for evidence till year 2019. Lateron claimant's application for amendment came to be allowed on 03/10/2019 and they took time till 27/9/2022 for filing amended plaint. In that amendment the authority arrayed as respondent no.2 was rectified. Subsequently fresh notices were issued and on 27/9/2023 the respondents appeared and moved present application alongwith written statement.

4. It must be note here that references under Section 18 of Land Acquisition Act used to refer the court by respondents. No doubt the exparte order was passed in the year 2016, but the authority representing as respondent No.2 has been changed in the year 2019 and fresh notices were issued in the year 2023. The

exparte order passed in the year 2016 was not against proper authority. After amendment the proper authority have been appeared and filed this application. Both respondents are Government Public Officers as well as acquiring Authority, they are not expected to appear in person since AGP are appointed on their behalf, therefore the present application not required to be supported by affidavit.

5. So far as delay is concern, it is to be noted that this is a compensation proceeding involving monetary interest of claimants. There is not only delay on the part of respondents but also claimants as discussed above. Hence I have no hesitation to treat this application as setting aside exparte order for respondent no1 and permission of filing WS for respondent No. 2. It would obviously going to avoid further delay in adjudication of present reference petition.

6. So far as cost is concern, whatever delay caused would be compensated in money since the interest under Land Acquisition Act would cover the said period. Hence considering these facts and circumstances and to decide the matter on merit, present application deserves to be allowed as follows-

ORDER

1. Application (Exh.16) is allowed.
2. Exparte order against respondent No.1 is set aside

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and he is permitted to file W.S.

3. The respondent No.2 is permitted to file W.S.

Date.21.09.2024.

Sd/-
(Dr. Vikas G. Karmore)
4th Jt. Civil Judge S.D.
Jalna.