

MHLA110001872019



**COMMON ORDER BELOW EXHIBIT NOS.11, 13
AND 15 IN LAR NO.26/2019
KHURSHIDMIYA VS. STATE & ORS.**

1. Perused the applications and say filed thereon. Heard Learned Counsel for both sides.
2. Learned Counsel for the claimant submitted that claimant Khurshidmiya Haffizoddin Deshmukh died on 25/04/2008. However, as the matter was pending before the Collector, they were not having legal knowledge to participate in the present proceedings. Therefore, they failed to bring the legal representatives of deceased claimant Khurshidmiya Haffizoddin Deshmukh on record. As they could not file the present applications within the prescribed period of limitation, they prayed to set-aside the abatement and condone the delay for bringing the legal heirs on record.
3. Respondents resisted the applications and contended that there is huge delay in filing this application. Claimants have belatedly filed this application. The delay is huge. Hence, it is prayed to reject the applications on heavy costs or if the Court is of opinion to allow the application, then the period of interest during year 2008 to 10/09/2024 be waived.
4. It is necessary to mention here that, under Article 121 of the Act an application to set aside abatement has to be filed within specific period of 60 days from the date of abatement. This application for bringing legal heirs on record is filed after 16 years. However, the application is supported with affidavit and claimants are ready to waive the period of interest for the abovesaid period which would be allowed by the Court in case if the reference is granted. Ld. AGP also has given no objection to allow the application in case of waiver of interest by claimants.
5. Claimant has filed this reference for enhancement of compensation. Therefore, it is clear that, right to sue survives to

the legal representatives of deceased claimant Khurshidmiya Haffizoddin Deshmukh. Considering the interest of claimants and their readiness to waive the period of interest from death of deceased till filing of this application, it will be just and proper to condone the delay for bringing the legal heirs of deceased claimant Khurshidmiya Haffizoddin Deshmukh on record and to set aside the abatement. Hence, I proceed to pass the following order:

ORDER

- 1) Application Exhibit Nos.11, 13 and 15 are allowed subject to waiver of interest from year 2008 to 10/09/2024 in case if the reference is allowed and on payment of cost of Rs.1,500/- (Rupees One Thousand Five Hundred only).
- 2) Delay in bringing L.Rs. of deceased claimant Khurshidmiya Haffizoddin Deshmukh on record is hereby condoned.
- 3) L.Rs. of deceased claimant Khurshidmiya Haffizoddin Deshmukh be brought on record till next date, without fail.

Nilanga
Dt.:- 22/10/2024

(Smt. V. D. Bhosale)
Jt. Civil Judge Sr. Dn., Nilanga.