



Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL MISC. APPLICATION NO.70/2024

AND

CIVIL APPLICATION NO.30/2025

IN

FIRST APPEAL NO.26/2025

THE EXECUTIVE ENGINEER WORK
DIVISION XIII (ROADS) PWD

... APPLICANT

Versus

RAMAKANT LADU NAIK

... RESPONDENT

P. Arolkar, AGA for the Applicant.

Mr P. Dangui, Advocate for the Respondent.

CORAM: VALMIKI MENEZES, J.

Reserved on: 13th JUNE 2025

Pronounced on: 19th JUNE 2025

P.C. :

1. Registry to waive objections and register the matter.
2. Heard. This is an application for condonation of delay of 789 days in filing a First Appeal against a Judgment and Award dated 27.08.2021 passed by the District Court-1, North Goa at Mapusa, in a land acquisition proceeding bearing Case No.37/2016. The award grants the respondents enhanced compensation at Rs.271/- per sq.mtr. for the area of 1400 sq.mtrs. of land under Survey No.22/3 (Part) of Village Assonora acquired for the purpose of construction of the Assonora by-pass; The Land Acquisition Officer (LAO) had passed an award assessing the market value of the land at Rs.42/- per sq.mtr.

3. The application has been vehemently opposed by the respondents who have filed an affidavit in reply dated 27.02.2025. The main contention raised in the affidavit, as also in the submissions made before this Court, to oppose the application are that the reasons cited therein are vague without stating specific dates or particulars for such delay.

4. I have perused the application seeking condonation of delay, which is supported by affidavit of the Executive Engineer, WD-XIII, PWD. The main reasons for delay are administrative procedures for moving the concerned file through various departments and authorities, and for recording opinions prior to the memo of appeal being lodged. The reasons cited for the delay, as can be culled out from the application are reduced to tabular form as under:-

Date	Reason/Event
27.08.2021	Impugned judgment and award passed. Certified copy applied for. To be delivered on 03.09.2021. Certified copy was delivered on 07.09.2021. The applicant contends that the Govt. Pleader representing the matter did not inform the concerned officer of the award.
03.12.2021	Limitation ends.
11.08.2022	The respondent/decreed-holder inwarded a letter addressed to the appellant, demanding payment of the awarded amount. A copy of the award was annexed to the letter.
31.10.2022	The Assistant Engineer submitted a report along with calculations.

09.11.2022	Letter addressed to the Assistant Engineer (AE), Mapusa requesting submission of the relevant documents which were forwarded to the Superintending Engineer (SE) on 24.11.2022.
30.12.2022	The Executive Engineer sent the file back to the SE requesting for a legal opinion.
16.01.2023	AE was requested to contact the Govt. Counsel who dealt with the matter to seek his legal opinion.
28.02.2023	Letter issued by the AE to the Govt. Counsel requesting for legal opinion.
28.03.2023	Legal opinion of the Govt. Counsel sent to the SE which was forwarded to the Chief Engineer (CE) for approval.
12.04.2023	CE submitted his opinion to the Chief Secretary which was then submitted to the Law Dept.
28.04.2023	Law Dept. endorses its opinion and reverts the file back to the CE on 03.05.2023.
29.05.2023	Opinion of the Minister was given and file forwarded back to the CE.
13.06.2023	The file was re-submitted to the Asst. Surveyor of Works for onward submission to the Govt. Lawyer for drafting appeal to present before the High Court.
01.08.2023	After the file moved once again to the CE, Chief Secretary, Minister, Law Dept. and the office of the Advocate General it was submitted to the Govt. Advocate.
24.08.2023	Name of the Govt. Advocate who would be allotted the brief to file the appeal was approved, case papers were sent to the Govt. Advocate for drafting the appeal.
October 2023	The draft of the memo of appeal was sent back for Govt. approval.
Mid January 2024	Govt. approval was granted to the memo of appeal.
31.01.2024	The appeal was lodged in the Registry of the High Court.

5. Perusing the various periods spent in the movement of the file amongst various Government agencies, the following facts which contribute to the delay are striking, for which no reasons have been cited.

There is no disclosure of any reason in the application, as to why no officer of the department was following up the matter during the course of the hearing of the proceedings before the District Court and how the officer was not aware that the judgment was passed on 28.08.2021. The limitation expired on 03.12.2021. There is also no explanation as to on what date the certified copy of the award which was in possession of the Govt. Advocate was collected by the officer after gaining knowledge of the passing of the award, when the letter/notice dated 11.08.2022 was served on the department, requesting for making payment to the decree-holders, under the award.

6. Even after having received this notice, the most obvious reaction would have been, for the concerned officer to immediately contact the counsel appearing for the department in the Land Acquisition proceedings before the District Court, but instead the AE spent a period from 11.08.2022 to 28.03.2023 in forwarding the notice to his superiors. Legal opinion from the counsel appearing for the department was sought only on 28.03.2023 after which the file moved for various Government approvals and opinions for another three months till 13.06.2023, without any priority or urgency being attached to the process, even though the department was fully mindful of the fact that the

period of limitation had long expired for almost one year and nine months prior to this date.

7. Between 28.04.2023 and 24.08.2023, yet another four months were spent in approving a name of an advocate to appear for the department and getting approval for the draft of the memo of appeal. Even after the draft was obtained in October 2023, no urgency was demonstrated in filing the appeal and a further period of three months was spent in obtaining further Government approvals, when on an earlier round between 12.04.2023 and 29.05.2023, Government approvals had already been obtained for preferring an appeal. These included approvals of the Law Department and the concerned Minister.

8. In *Post Master General and Anr. v/s. Living Media India Ltd, (2012) 3 SCC 563*, the Supreme Court has considered, under similar circumstances why delay should not be condoned in cases such as a present one, more so when officers of the acquiring department are fully conversant with the procedures followed in land acquisition cases. The following observations are reproduced from the said judgment:

“27. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically

merely because the Government or a wing of the Government is a party before us.

28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.

29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.”

9. The above referred judgment of the Supreme Court was passed way back in the year 2012, making it explicitly clear that Government departments are under special obligation to perform their duties with diligence and commitment and there is no need to accept the usual explanations offered for administrative delays.

Following *Post Master General (supra)* the Bombay High Court, in *Municipal Corporation of Greater Bombay, thr. Its Secretary & Anr. v/s. The Indian Hotels Company Ltd. - 2024 SCC OnLine (Bom) 3117*, has taken note of the casual attitude adopted by officers of the Government in moving files with regard to court matters, and has made the following observations:

“8. Following the said decision (rendered in 2012), the Supreme Court once again had occasion (this time in 2020) to reiterate the declared law. Inter alia quoting the aforesaid extracts, the Supreme Court in State of Madhya Pradesh & Ors. vs. Bherulal stated the following:-

“2. We are constrained to pen down a detailed order as it appears that all our counselling to the Government and government authorities has fallen on deaf ears i.e. the Supreme Court of India cannot be a place for the Governments to walk in when they choose ignoring the period of limitation prescribed. We have raised the issue that if the government machinery is so inefficient and incapable of filing appeals/petitions in time, the solution may lie in requesting the legislature to expand the time period for filing limitation for government authorities because of their gross incompetence. That is not so. Till the statute subsists, the appeals/petitions have to be filed as per the statutes prescribed.

3. No doubt, some leeway is given for the government inefficiencies but the sad part is that the authorities keep on relying on judicial pronouncements for a period of time when technology had not advanced and a greater leeway was given to the Government [LAO v. Katiji]. This position is more than elucidated by the judgment of

this Court in Postmaster General v. Living Media (India) Ltd. wherein the Court observed as under: (Postmaster General case, SCC pp. 573-74, paras 27-30)

5. A preposterous proposition is sought to be propounded that if there is some merit in the case, the period of delay is to be given a go-by. If a case is good on merits, it will succeed in any case. It is really a bar of limitation which can even shut out good cases. This does not, of course, take away the jurisdiction of the Court in an appropriate case to condone the delay.”

9. What is most piquant is that a Learned Single Judge of this Court, in a case involving the same parties as in the instant case, and in fact, in one of the very matters covered by the Appeal Committee at the same meeting held on March 17, 2021, rejected the request for restoration of an appeal which was sought after a delay of five years and six months. First Appeal No.890 of 2007 had come to be dismissed for non-filing of private paper book, for which a period one year had been given. Although such period was granted by an order dated March 8, 2007, since no compliance was found, the Appeal stood dismissed. However, a restoration application was allowed on February 24, 2009 with a cost of Rs.1,000 being imposed. Thereafter, on April 20, 2015, the Appeal was dismissed for non-payment of bhatta charges as also non-filing of the private paper book (which indicates that right until 2015, despite the first restoration, the non-compliance continued). Yet again, an application for restoration was routinely filed in 2022, which was dismissed by the Learned Single Judge.

10. Mr. Patil states that the Appeal Committee comprises of ex officio members and it is not easy for them to convene. That cannot be an acceptable reason to condone delay. It is for the MGCM to put its house in order and not have a framework for its decisions on whether to appeal, that is inconsistent with the statutory framework of having to appeal within 30 days under Section 218D of the Act.”

10. Following the observations made in the aforementioned judgments, and applying the same principle to the facts referred to by me in paragraphs 5, 6 and 7, in my opinion, the application is devoid of any good reasons for condoning such a huge delay, when the Limitation Act bars the remedy of appeal, unless sufficient cause is shown. In the present case, and for reasons stated above, the facts sought to be stated as sufficient cause in the application do not constitute reasons to condone delay. The application is therefore rejected. No cost.

11. In view of the disposal of the Civil Misc. Application No.70/2024, the First Appeal is rejected. All pending Civil Applications do not survive the disposal of the appeal and hence the same are disposed of.

VALMIKI MENEZES, J.