

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Civil Application No. 7032 of 2013

(In First Appeal Stamp No. 10387 / 2013)

1. Ramkishan s/o. Sahebrao Jadhav,
Died through L.Rs.,

1-A] Shantikala w/o. Ramkishan Jadhav,
Age : 70 years,
Occupation : Agriculture,
R/o. Lonighat,
Taluka & District : Beed.

1-B] Sambhaji s/o. Ramkishan Jadhav,
Age : 35 years,
Occupation : Agriculture,
R/o. Lonighat,
Taluka & District : Beed.

1-C] Shivaji s/o. Ramkishan Jadhav,
Age : 30 years,
Occupation : Agriculture,
R/o. Lonighat,
Taluka & District : Beed.

.. Applicants
(L.Rs. of original claimants)

versus

1. The State of Maharashtra,
Through the Collector, Beed
[Special Land Acquisition Officer
No.3, Beed].

2. The Executive Engineer,
Medium Project, Osmanabad.

.. Respondents
(Original respondents)

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Mr. H.V. Tungar, Advocate, for the applicants.

*Mr. A.M. Phule, Assistant Government Pleader, for
respondent no.1.*

Mr. S.G. Sangle, Advocate, for respondent no.2.

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CORAM : A.M. BADAR, J.

DATE : 16TH NOVEMBER 2015

PER COURT :

1. By this application under Section 5 of the Limitation Act, delay of 2872 days occurred in filing First Appeal challenging the judgment and order passed by the learned IVth Ad hoc Additional District Judge, Beed, in Land Acquisition Reference No. 360 of 1998, on 21-2-2005, is sought to be condoned.

2. Heard the learned Counsel appearing for the applicants as well as the learned Counsel appearing for the non-applicants.

3. The learned Counsel appearing for the applicants submitted that the reference Court has decided L.A.R. No. 360/1998 on 21-2-2005 and though 21 mango trees were acquired, compensation for only 9 mango trees and that too inadequate was paid to the claimant. He submitted that the Reference was filed by Ramkisan s/o. Sahebrao Jadhav and he expired after about a year of passing the judgment and award in L.A.R. No. 360/1998. His sons and wife have preferred the present application for

seeking condonation of delay. The learned Counsel for the applicants further submitted that the sons of the original applicant were residing in Pune and Mumbai as they left the village long back. They are now settled in Mumbai and Pune. He further submitted that the wife of the claimant was not aware about the acquisition proceedings as well as judgment and decree passed by the learned reference Court. The learned Counsel for the applicants further submitted that Writ Petition bearing No. 2745/2011 was filed with a prayer that the State be directed to pass additional award for acquired trees, but it was disposed of with liberty to pursue appropriate remedy. Hence, in submission of the learned Counsel for the applicants, there was delay because of prosecuting some other remedy bona fide, so also due to the fact that the sons of the claimant were settled far away from the village of the claimant. Death of the claimant was also one of the factor which delayed in lodging the appeal.

4. Per contra, according to the learned Assistant Government Pleader appearing for non-applicant no.1, as well as Mr. Sangle, the learned Counsel appearing for non-applicant no.2 - Acquiring Body, delay of more than 8 years is not explained properly and there is no sufficient cause for condoning delay.

5. It is well settled that the words '*sufficient cause*' needs to be given liberal interpretation as primary function of the Court is to adjudicate the dispute on merit. However, sufficient cause cannot be stretched to such an extent to allow condonation of delay in the matters where the delay is inordinate and not sufficiently explained. In the case in hand, the delay is more than 8 years. The contention that, sons of the

original claimant were settled outside village, does not impress this Court because from the additional affidavit filed in support of application for condonation of delay, it is seen that they are well educated and shifted to big cities for earning their livelihood. As such, it cannot be said that they were not aware about the litigation initiated by their father. For this reason also, it cannot be said that the wife of the original claimant was not aware about the pendency of proceedings for claiming higher compensation. Filing of Writ Petition by the applicants goes to show that they were well aware about the proceedings for enhancement of compensation.

6. As the applicants have failed to establish sufficient cause for seeking condonation of delay, the Application is rejected. Consequently, registration of the First Appeal is refused.

7. Necessary court fees be refunded to the applicants as per rules.

(A.M. BADAR)
JUDGE

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