

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

WRIT PETITION NO. 10187 OF 2014

Sheshrao Yedu Dushing,
Age : 78 years, Occu.- Agril.
R/o Jategaon, Tq. Vaijapur,
Dist. Aurangabad.

...PETITIONER

versus

1. The State of Maharashtra,
Through its Special Land Acquisition
Officer-cum-Sub-Divisional Officer,
Vaijapur, Dist. Aurangabad.
2. The Executive Engineer,
Nandur, Madhmeweshar Project
Division, Vaijapur, Tq. Vaijapur,
District Aurangabad.

...RESPONDENTS

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Mr. A.S. More, Advocate holding for
Mr. V.G. Deshmukh, Advocate for Petitioner
Mr. V.G. Shelke, A.G.P. for respondent No. 1
Mr. N.B. Jadhav, Advocate holding for
Mr. P.P. Kulkarni, Advocate for respondent No. 2.

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CORAM : SUNIL P. DESHMUKH, J.

DATED : 30th MARCH, 2015

JUDGMENT :-

1. Rule. Rule made returnable forthwith and heard finally with consent of learned counsel for the parties.
2. Petition has been moved against order dated 01-08-2014 of learned Civil Judge, Senior Division, Vaijapur, rejecting application of petitioner-original applicant for condonation of

delay of 41 days caused in filing application bearing miscellaneous application requiring judicial enquiry (MARJI) no. 55 of 2013 for review of judgment and award dated 24-06-2013 in Land Acquisition Reference No. 513 of 2010 in respect certain calculations.

3. Learned counsel for petitioner submits that it is not disputed that petitioner is an agriculturist and an old person. He further submits that agricultural operations in the rural area are performed during monsoon season and the petitioner was engaged in the same. Therefore, he submits that the reasons as contained in the application for condonation of delay caused in filing the review application are genuine and ought to have been taken into account.

4. Learned counsel for respondents, however, support the order impugned.

5. While application for condonation of delay is to be considered, regard to legal position is to be had that liberal approach needs to be taken. It is not disputed that Land Acquisition Reference No. 513 of 2010 has been decided on 24-06-2010 i.e. during monsoon season. It is also well known that generally agricultural operations are required to be performed during monsoon season. It is also to be taken into

account that there is delay only of 41 days, which deserves empathetic consideration. Further, the position that petitioner is an agriculturist and is an old person is not in dispute.

6. Taking overall view in the mater, in my estimate, interest of justice can be sub-served by taking liberal approach and application need not be rejected for pedantic and technical reasons. The delay, as such, deserves to be condoned.

7. In view of aforesaid, Writ Petition stands allowed. Order dated 01-08-2014 passed by learned Civil Judge, Senior Division, Vaijapur, in application M.A.R.J.I. No. 55 of 2013 stands set aside and said application stands allowed.

8. Rule is made absolute accordingly.

9. It is further made clear that this order and observations as aforesaid shall not be considered to be on merits of the matter and shall not be deemed as such while deciding the review application on merits.

Sd/-

(SUNIL P. DESHMUKH, J.)

MTK