

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

C.A.F. No. 1371/2016 IN FIRST APPEAL ST. No. 6613/2016

RAMCHANDRA BHIKA KUDMETHE (DEAD) THROUGH ITS L.Rs. SMT. KASUBAI
RAMCHANDRA KUDMETHE AND OTHERS -vs- THE STATE OF MAHA. THROUGH COLLECTOR,
YAVATMAL AND OTHERS.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri R.D. Hajare, counsel for appellants.
Ms. S. Haider, counsel for respondent nos.1 and 2.
Shri S.G. Jagtap, counsel for respondent no.3.

CORAM: DR. SMT. SHALINI PHANSALKAR-JOSHI, J.

DATE : JUNE 22, 2017.

This is an application for condonation of delay of 3468 days in preferring the appeal challenging the judgment and award passed by the Civil Judge (Sr.Dn.), Pandarkawda, Kelapur in L.A.C. No. 500/2002, decided on 22/06/2006.

The reason given for condonation of this long duration of about 10 years delay is extremely vague. The only reason given is the poor financial condition of appellants, who are the original claimants and their inability to pay necessary court fee stamp and bear other legal expenses. However, in the same para no.3 of the application, it is stated that appellants have received enhanced amount of compensation in the month of July-2015 itself. This application and the appeal is however filed

on 19/03/2016. No explanation is offered for this delay from July-2015 to March-2016.

Hence, having regard to the long duration of the appeal of about 10 years in preferring the first appeal when it becomes necessary to reject this application. However, learned counsel for appellants has relied on the judgments of the Hon'ble Apex Court, in the case of *Imrat Lal and others -Vs- Land Acquisition Collector and others, 2013 DGLS (SC) 1065* and *Ranjit Singh and another -Vs- State of Haryana and others, 2014 DGLS (SC) 1127*.

In the first authority, while accepting the submissions that the averments contained in the application for condonation of delay were extremely vague and did not provide satisfactory explanation for the long delay of 1110 days, it was observed by the Hon'ble Supreme Court that it cannot be ignored that in identical matters such delay has been condoned. The Hon'ble Supreme Court was further pleased to observe in para no.13 as follows :-

“13. We can take judicial notice of the fact that villagers in our country are by and large illiterate and are not conversant with the intricacies of law. They are usually guided by their co-villagers, who are familiar with the proceedings in the Courts or the advocates with whom they get in touch for redressal of their grievance. Affidavits filed in support of the applications for condonation of delay are usually drafted by the advocates on the basis of half baked information made available by the affected persons. Therefore, in the acquisition

matters involving claim for award of just compensation, the Court should adopt a liberal approach and either grant time to the party to file better affidavit to explain delay or suo motu take cognizance of the fact that large number of other similarly situated persons who were affected by the determination of compensation by the Land Acquisition Officer or the Reference Court have been granted relief.”

With this observation, the Hon'ble Supreme Court was pleased to condone the delay in the said matter though it was of a substantial period of 1110 days, subject to condition of appellant not claiming interest for the delayed period.

In the second authority of **Ranjit Singh** also, though the appellant had approached beyond the period of one year, the delay was condoned subject to condition that they shall not be entitled to any interest for the period of delay.

In the instant case also, it is submitted by learned counsel for appellants that appellants will not claim any amount of interest on the delay of 3468 days caused in preferring the appeal i.e. from the date of award passed by the reference court on 22/06/2006 till the date.

In view of this submission made by learned counsel for appellants and in the light of law and legal position laid down by the Hon'ble Supreme Court in abovesaid two authorities, which expect the court to adopt

a liberal approach in the acquisition matters involving claim for award of just compensation, this application is allowed and the delay is condoned with no order as to costs, subject to condition that appellant shall not claim the interest from 22/06/2006 till the date.

FIRST APPEAL ST. No. 6613/2016.

Heard.

ADMIT.

Call for R and P.

Appellant to file private paper book within 6 months after receipt of R and P.

Learned AGP waives service of notice on respondent nos.1 and 2, whereas learned counsel Shri S.G. Jagtap waives service of notice on respondent no.3.

JUDGE