

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

933 CIVIL APPLICATION NO.5098 OF 2018
IN FAST/8293/2018

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SHRIKANT VISWAS KAPSE AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ORS

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Ms.S.M.Jadhav, Advocate holding for Shri
L.C.Patil, Advocate for the Applicants.
Shri A.M.Phule, AGP for the respondent-State.

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CORAM : P.R.BORA, J.
DATE : 06.10.2018

ORDER:

1. Heard the learned counsel appearing for the applicants and the learned AGP appearing for the respondent – State.

2. The delay of 1955 days has occurred in filing the present Appeal by the claimant seeking enhancement in the amount of compensation. Lack of awareness and financial difficulties are the reasons assigned for occurrence of the delay. It is also contended that the applicants would not claim any statutory benefits or interest for the period of delay in the event of their success in the

Appeal. The learned counsel further submitted that the applicants have very good case on merits and as such opportunity needs to be given to them for prosecuting their matter on merits.

3. Shri A.M.Phule, learned AGP has strongly opposed for condoning the delay stating that the reasons assigned in the application for the huge delay of 1955 days are insufficient and without any just and cogent reasons, the delay cannot be condoned.

4. After having considered the submissions, though it appears to be a longer period, in view of undertaking given by the applicant that no interest will be claimed for the period of delay, I am inclined to allow this Application. Hence, the following order:

ORDER

i] The application is allowed. The

delay caused in filing the Appeal is condoned. It is clarified that the applicants shall not be entitled for the statutory benefits or the interest under the provisions of the Land Acquisition Act in the event of their success in the Appeal on the enhanced amount of compensation.

ii] First Appeal be registered in accordance with law. On registration of the Appeal, issue notice to the respondents. Shri A.M.Phule, learned AGP waives service of notice for all respondents. Service complete.

iii] List the Appeal for further consideration after four weeks.

[P . R . BORA]
JUDGE

DDC