

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

**CIVIL APPLICATION NO. 15364 OF 2016
IN FAST NO. 26177/2014**

Shri. Yusuf s/o Ali Maniyar,
Died through LR's
Mahimunna Yusuf Ali ManiyarApplicant

Versus

The State of Maharashtra ...Respondent

...
Mr. N. R. Pawade h/f. Mr. L. C. Patil, Advocate for appellant
Mr. A.M. Phule, Advocate for respondent No.1 State.
...

WITH
**CIVIL APPLICATION NO. 15367 OF 2016
IN FAST NO. 26175/14**

...
CORAM : SUNIL P. DESHMUKH, J.

DATED : 19th MARCH, 2018.

Order :-

1. The present applications are moved by the applicants-claimants for condonation of delay in preferring the appeals against judgment and award passed by reference court, whose lands had been acquired for the Benetura medium project at Murum.

2. The award under proceedings has been passed by land acquisition officer on 21-11-1992. Since the amount had been far less than the market price of lands, the claimants were

constrained to approach the reference court.

3. It is submitted that the references were decided around 2007. By then, the possession of the acquired lands had been lost. The earning capacity of applicants had been affected and they are suffering financial continual crises condition. Additionally, It is contended that they were unaware of the wherewithals how to do of about award passed by the reference court, had not realized that judgment can be challenged by preferring the appeals.

4. Around 2012, amount towards compensation had been received at the end of applicants and had also become aware then that the appeals can be preferred against judgment and award passed by reference court. As such, payment of compensation in 2012 coupled with awareness for remedy against wrongful consideration had facilitated filing the appeals.

5. All these aspects appearing in the applications neither had been controverted much less rebutted. It is further being referred to that in quite few matters, delay of similar magnitude have been considered by division bench of this Court while dealing with civil application No. 2769 of 2016 in similar circumstances and companion matters and it is submitted that the applicants should receive similar treatment. It is being referred to that the division bench had condoned delay. In view of aforesaid, it would be

expedient in the interest of justice to condone the delay subject to undertaking being filed by applicants that they would not claim any interest over delayed period. As such, following order:-

Civil applications are allowed. Delay caused in filing the appeals is condoned with a rider that in case appeals filed by the applicants are allowed, the applicants would not claim interest for the delayed period. Civil applications are accordingly disposed of.

Sd/-

[SUNIL P. DESHMUKH]
JUDGE

MTK.