

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

955 CIVIL APPLICATION NO. 13795 OF 2016
IN FAST/27528/2016

MOHAMMAD BAHAUDDIN MOHD. KHAJA DIED BY LRS AKHTAR
BEGAM AND ANR
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...
Mr. G.N. Chincholkar, Advocate for Applicants
Mr. A.D. Namde, AGP for respondent-State
...

CORAM : SUNIL P. DESHMUKH, J.

DATED : 23rd MARCH, 2018.

Order :-

1. Heard learned counsel for appearing parties.
2. Learned counsel refers to variety of reasons and submits that on account of same, the appeal could not be filed within time, primarily being unaware of impugned judgment and award dated 24-03-009 passed by reference court and subsequently due to financial difficulties. Learned counsel has placed reliance on judgment of supreme court in the case of *Dhiraj Singh (died) through L.Rs. Vs. Hariyana State and others* reported in 2014 (14) SCC 127 and submits that in said matter, delay in approaching court for enhancement of compensation, has been condoned and requests to adopt similar approach in present matter.

3. Absence of appearance of respondent-acquiring body, gives indication of tacit consent to request under the application. There is no resistance to delay condonation application and for that matter, veracity of contents of application go uncontraverted. Application is not resisted by filing any affidavit.

4. In the circumstances, consideration which weighed with Supreme Court in case of *Dhiraj Singh* (supra) as also in the case of *Collector, Land Acquisition, Anantnag and another vs. Mst. Katiji and others* reported in *AIR 1987 SC 1353* and quite few orders passed by the High Court in similar circumstances, it would be expedient to allow the application.

5. Learned counsel further submits that in case first appeal is allowed and compensation enhanced, applicants will not claim interest for the delayed period, and, as such, would file undertaking to the effect that they would not claim any interest on the enhanced amount of compensation for the delayed period, in case the first appeal is allowed.

6. In view of aforesaid civil application is allowed in terms of prayer clause "B" and stands disposed of.

[SUNIL P. DESHMUKH]
JUDGE