

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

32 CIVIL APPLICATION NO. 2906 OF 2018
IN FAST/39011/2017 WITH CA/2907/2018 IN FAST/39573/2017
WITH CA/2908/2018 IN FAST/39605/2017 WITH CA/2909/2018
IN FAST/39586/2017 WITH CA/2910/2018 IN FAST/39593/2017
WITH CA/2911/2018 IN FAST/39601/2017 WITH CA/2912/2018
IN FAST/39612/2017 WITH CA/2913/2018 IN FAST/39581/2017
WITH CA/2914/2018 IN FAST/39603/2017 WITH CA/2915/2018
IN FAST/39596/2017 WITH CA/2916/2018 IN FAST/39608/2017
WITH CA/2917/2018 IN FAST/39576/2017 WITH CA/2918/2018
IN FAST/39589/2017

RADHIKA RAM IPPAR AND ANR
VERSUS
THE STATE OF MAHARASHTRA AND ORS

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Advocate for Applicants : Mr. Kendre N.D.
AGP for Respondents 1 and 2 : Mr. A.P.Basarkar
Adv. for respondent no.3 : Mr. S.G.Sangle

CORAM : SUNIL K. KOTWAL, J.

DATE : AUGUST 20, 2018

O R D E R :

These applications are filed condonation of delay of 1900 days caused in filing appeals. Learned counsel for the applicants submits that the award was passed in the year 2012. Respondent no.3 did not deposit the compensation amount till 2017, and therefore, on account of financial crises the

applicants could not arrange for expenditure of court fee and other miscellaneous expenditure. He submits that there is no intentional delay in filing appeal. He placed reliance on the judgment in the case of **K. Subbarayudu and others vs Special Deputy Collector (Land Acquisition) (2017) 12 SCC 840.**

12. With the acquisition of lands, the lifeline of the agriculturist is lost. There may be omission on the part of the claimants to adopt extra vigilance; but same need not be used as a ground to depict them with negligence or want of bona fide. In case of acquisition of lands of agriculturists, the courts ought to adopt a pragmatic approach to award just and reasonable compensation and not pedantic in their approach. In *Dhiraj Singh (D) Thr. Lrs. Etc. Etc. v. Haryana State and Ors. Etc. Etc.* 2014 (9) SCALE 441, it was held as under:-

"15. Equities can be balanced by denying the appellants' interest for the period for which they did not approach the Court. The substantive rights of the appellants should not be allowed to be defeated on technical grounds by taking hyper technical view of self-imposed limitations. In the matter of compensation for land acquisition, we are of the view that approach of the Court has to be pragmatic and not pedantic."

13. When the concerned court has exercised its discretion either condoning or declining to

condone the delay, normally the superior court will not interfere in exercise of such discretion. The true guide is whether the litigant has acted with due diligence. Since the appellants/claimants are the agriculturists whose lands were acquired and when similar situated agriculturists were given a higher rate of compensation, there is no reason to decline the same to the appellants. Merely on the ground of delay such benefit cannot be denied to the appellants. The interest of justice would be served by declining the interest on the enhanced compensation and also on the solatium and other statutory benefits for the period of delay.

2. Mr. S.G.Sangle, learned counsel for respondent no.3 vehemently opposed the application on the ground that no sufficient cause has been assigned by the applicants for condonation of delay, and as such, long delay cannot be condoned. In the alternate, he prayed for heavy costs of Rs. 10,000/-. He placed reliance on **Basawaraj and another vs Special Land Acquisition Officer (2013) 14 SCC 81.**

" 15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which

prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bonafide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature. "

3. There cannot be two opinions regarding the legal position as pointed out by the learned counsel for both the parties.

4. Present matters are regarding acquisition of land, wherein award was passed in the month of August, 2012. Unfortunately, opponent no.3 acquiring body deposited the compensation amount only in the

month of August, 2017.

5. Considering the situation, the reason assigned by the applicants for delay due to financial crises appears to be probable and acceptable. If a poor agriculturist cannot arrange for payment of court fee and other expenditure required for filing appeal, the doors of justice cannot be closed only on the ground of delay in filing appeal. Considering the above, I hold that the delay of 1900 days deserves to be condoned. In view of financial crises suffered by the applicants, I am not inclined to award any costs.

6. Accordingly, all Civil Applications are allowed with no order as to costs.

[SUNIL K. KOTWAL, J.]

dbm