

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

CIVIL APPLICATION NO.628/2018 AND M.C.A. (ST.) No.25310/17 IN
F.A.ST.NO.3927/2008 (R.C. 166/2008)

Smt. Dharmibai Maroti Jadhao .vs. State of Maharashtra through Collector,
Yavatmal, Dist Yavatmal and Ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. V. N. Patre, Advocate for applicant.
Mr. M. A. Kadu, A.G.P. for non applicant.

CORAM : V.M. DESHPANDE, J.
DATED : AUGUST 28, 2018

1. The present appeal for enhancement of compensation for compulsory acquisition of the land was filed by the applicant before this Court. The said appeal was required to be stamped of having Court Fee of Rs.7030/-. The appeal was also barred by limitation. Time was granted to pay the deficit Court fee. Within the granted period to pay the deficit Court fee, the Court Fee Stamps were not supplied. Consequently, the stamp was refused. For restoring the appeal on stamp, an application for restoration is filed. There is delay of 3468 days in moving the application. Therefore, the application for condonation of delay is moved.

2. I have heard Mr. Patre, learned counsel for the applicant, Mr. Damle, learned A.G.P. for non applicant nos.1 and 3 and Mr. Kadu, learned counsel for

non applicant no.2. Both of them vehemently opposed the application.

3. The appeal was filed for enhancement of compensation. For the paucity of funds, the required Court Fee Stamp was not paid, is the submission made by the learned counsel for the applicant.

4. During the course of arguments, Mr. Patre, learned counsel for the applicant, submitted that this Court has already allowed the appeals filed by other claimants whose lands are also covered under same Section 4 notification. The cause title of the application shows that the applicant lady is of 79 years of age. Her affidavit shows that she is a rustic and uneducated lady.

5. A litigant cannot be debarred from getting his or her right adjudicated on merit from the Court. The doors of justice cannot be shunted for the litigants for paucity of funds. Further, when this Court has already allowed the claim filed by other claimants whose lands are also acquired under the same notification vide First Appeal Nos.1110/2008 and 1108/2008, in my view, though there is an enormous delay, in the interest of justice, the delay has to be condoned.

6. Consequently, I allow both these applications. First Appeal Stamp No.392/2008 is restored to file.

However, the appeal is restored to file subject to the condition that the applicant waives interest from the date of dismissal of the appeal till today.

The applications are disposed of accordingly.

7. Mr.Patre, submitted that within a period of 10 days, he will be paying the Court Fees. Hence, such a permission is granted. After payment of Court Fee, put up this matter for final hearing before this Court.

JUDGE

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**Yogesh
Arvind
Kahale**

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Yogesh
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