

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

940 CIVIL APPLICATION NO.4213 OF 2019
IN FAST/3951/2019 WITH CA/4214/2019 IN FAST/3951/2019
WITH CA/4215/2019 IN FAST/3946/2019 WITH CA/4216/2019 IN
FAST/3946/2019 WITH CA/4217/2019 IN FAST/3956/2019 WITH
CA/4218/2019 IN FAST/3956/2019 WITH CA/4219/2019 IN
FAST/3961/2019 WITH CA/4220/2019 IN FAST/3961/2019

THE EXECUTIVE ENGINEER, IRRIGATION PROJECT DIVISION,
JALNA, THROUGH G.M.I.D.C., AURANGABAD
VERSUS
VANKAR YADAVRAO PADOL AND ORS.

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Advocate for Applicants : Shri Swami Mahesh C.
Advocate for respondent no.1: Shri R.J. Nirmal
AGP for Respondent nos.2 & 3: Shri G.O. Wattamwar

CORAM: V.L. ACHLIYA, J.

DATE: 27.03.2019

PER COURT :

- 1] Heard learned counsel for the applicants.
- 2] Issue notice to respondents.
- 3] Advocate Shri R.J. Nirmal submits that he has received instructions to appear for the claimants in these matters and undertakes to file Vakalatnama within a week. Learned AGP waives service for the respondent nos.2 & 3.
- 4] By consent, the applications are taken up for

hearing.

5] The applicants have taken out these applications for condoning the delay in filing appeals, which is in the range of 300 to 400 days. The delay is claimed to have caused due to the reasons set out in detail in the applications.

6] In brief, it is the contention of learned counsel for the applicants that the delay caused in filing the appeals was not deliberate, but resulted due to time spent in securing necessary opinion and clearance from higher authorities to file the appeals. In the process, considerable time was spent, which resulted into delay in filing the appeals. It is submitted that the appellants have a good case to succeed in the appeals. The Land Acquisition Officer has awarded the compensation at the rate of Rs.618/- per Aare, which has been enhanced to Rs.5,000/- per Aare by the Reference Court. It is submitted that in case the delay is not condoned, there is every likelihood that a meritorious matter may be rejected for technical reasons. The learned counsel, in support of the submission, referred and relied upon the decision of the Apex Court in the case of *Collector, Land*

Acquisition, Anantnag v. Mst. Katiji (AIR 1987 SC 1353).

7] On the other hand, learned counsel appearing for the respondent – claimants opposed the applications with contention that the cause assigned is not sufficient to condone the delay.

8] Considering the submissions in the light of unchallenged pleadings made in the applications, the cause assigned for condonation of delay as well as the grounds raised in the appeals, I am of the view that the delay deserves to be condoned. In the case of *Collector, Land Acquisition, Anantnag v. Mst. Katiji (supra)*, the Apex Court has observed that while dealing with the application seeking condonation of delay, the Court must adopt liberal approach. In case delay is not condoned, there is every likelihood that meritorious matter may be rejected due to technical reasons. Whereas, if delay is condoned, the matter can be decided on its own merits. The loss caused to the other side on account of delay can be compensated in terms of money. Keeping in mind the broad principles laid down in the case of *Collector, Land Acquisition, Anantnag v. Mst. Katiji (supra)* and overall facts of the case and the

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reasons assigned, I am inclined to allow the applications subject to payment of costs. Hence, the following order:-

O R D E R

A] The applications are allowed subject to costs of Rs.5,000/- in each of the applications to be payable within four weeks from the date of this order.

B] On deposit of costs, the appeals be registered and placed for admission on 29.4.2019.

C] On deposit of costs, the respondent – claimants in respective applications will be at liberty to withdraw the costs deposited in their respective applications.

D] The applications are disposed of in above terms.

(V.L. ACHLIYA, J.)