

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

Civil Application No. 09411 of 2018
(In First Appeal Stamp No. 19375 / 2018)

District : Beed

Chandrakant s/o. Shriram Patil,
Age : 55 years,
Occupation : Agriculturist,
R/o. Malives, Beed,
Taluka & Dist. Beed.

.. Applicant
(Original
claimant)

versus

1. The State of Maharashtra,
Through the Collector, Beed,
Taluka & Dist. Beed.

2. The Municipal Council, Beed,
Through its Chief Officer,
Beed, Taluka & Dist. Beed.

.. Respondents
(Original
opponents)

.....

Mr. H.V. Tungar, Advocate, for the applicant.

*Mr. R.B. Bagul, Assistant Government Pleader, for
respondent no.01.*

*Mr. Devdatta D. Deshmukh, Advocate, holding for
Mr. G.K. Thigle Naik, Advocate, for respondent
no.02.*

.....

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 04TH JUNE 2019

ORAL ORDER :

01. Present application has been filed for
getting delay of 396 days in filing first appeal

condoned.

02. The applicant is the original claimant who had filed reference under Section 18 of the Land Acquisition Act, 1894, before Special Land Acquisition Officer, Jayakwadi Project, Beed. Thereafter, it came to be referred to learned District Judge, Beed. Land Acquisition Reference No.673 of 2010 was partly allowed by learned Ad hoc District Judge-1, Beed, on 10-03-2017. It is his contention, that the respondents had acquired property for construction of 15 metres wide road. The Land Acquisition Officer had offered rate at the rate of Rs.2,500/- per square metre, but according to the claimant, he was entitled to get rate at the rate of Rs. 6,500/- per square metre. Learned reference Court had granted rate at the rate of Rs. 1,300/- per square metre. The claimant is dissatisfied with the rate that has been awarded by the reference Court and, therefore, he has approached this Court by filing first appeal.

03. The applicant has contended that he is an agriculturist and he has no other source of income. The respondents had not paid the additional amount of compensation. The applicant was not having amount for payment of court-fees and bear the expenditure for filing first appeal. Therefore, he

pursued the execution petition. After the respondents deposited the amount, he had withdrawn the same and thereafter applied for certified copies. In the meantime, there was a marriage proposal for his daughter and, therefore, he was busy in the domestic duties. It is stated that the said delay of 396 days is neither intentional nor deliberate and, therefore, he has prayed for condoning the said delay.

04. The application has been objected by both the respondents on the ground that the delay has not been explained properly; each and every day's delay has not been explained. So also, the reasons given in the application are not correct, genuine and sufficient as well as reasonable to condone the delay.

05. Heard learned Advocate Mr. H.V. Tungar appearing for the applicant. Heard learned Assistant Government Pleader Mr. R.B. Bagul appearing for respondent no.01. So also, heard learned Advocate Mr. D.D. Deshmukh h/f. learned Advocate Mr. G.K. Thigle Naik appearing for respondent no.02. All of them have made submissions in support of their respective contentions.

06. Here, the applicant has put forward basically two reasons : (1) that, he was not having sufficient income to bear the expenses for filing first appeal, including the amount of court-fees and (2) the marriage proposal of his daughter. Upon enquiry, it has been submitted that the applicant may not come within the definition of 'poor' to get free legal aid. But then, at that time, he was not having sufficient income. So also, he was busy with the marriage proposal of his daughter. Catena of judgments of this Court as well as the Supreme Court would show that it is not necessary that meticulously delay of each and every day should be explained; but then reason as a whole is required to be considered. Here, in this case, the applicant - appellant intends to say that he has not received fair and just compensation which can be said to be his right. Under such circumstance, leniency is required to be shown. At the same time, rights of the respondents are also required to be protected.

07. Hence, the following order :-

(a) The application is allowed.

(b) The delay in filing first appeal is hereby condoned. However, condition is put to the

applicant to file an undertaking in respect of foregoing the benefits in respect of delayed period. The undertaking be filed in this Court within 15 days.

(c) After the undertaking is filed, Registry to verify and register the first appeal.

(Smt. Vibha Kankanwadi)
JUDGE

.....