

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

916 CIVIL APPLICATION NO.13035 OF 2009
IN
FAST/24803/2009
WITH
CA/13036/2009
IN
FAST/24803/2009

THE STATE OF MAH AND ANR.
VERSUS
NAMDEO SHANUDAS AAGAM AND ORS.

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Mr. P.M.Kulkarni, A.G.P. for Applicant - State.

Mr. D.R.Jaybhar, Advocate for respondents.

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CORAM : V.L.ACHLIYA, J.

DATE : 12/04/2019

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ORAL ORDER :

1. The applicant has filed this application seeking 392 days delay caused in filing appeal against the Judgment and order dated 19/03/2008 passed by the learned Ad-hoc District Judge-1, Beed in L.A.R. No. 740/2006.

2. Heard learned A.G.P. for applicant and counsel representing the respondent/claimant.

3. In brief, it is the contention of learned A.G.P. for applicant that the delay caused in filing appeal was occurred due to securing the requisite documents and

approval from the State Govt. for filing the appeal. It is submitted that the delay caused was not deliberate. By referring the grounds raised in the appeal, learned A.G.P. submits that the Special Land Acquisition Officer has awarded compensation @ Rs. 500/- per R., the same has been enhanced @ Rs. 2,000/- per R. and further the interest has been awarded over the enhanced amount from the date of possession. By referring the decision of Full Bench of this Court in the case of ***The State of Maharashtra V/s Kailas Shiva Rangari reported in 2016 All M.R. 513 (F.B.)***, the interest over the enhanced compensation amount can be awarded only from the date of award and not from the date of possession. In that view, the applicant has good case to succeed in appeal. In case delay is not condoned, there is likelihood that a meritorious matter may be rejected for technical reason.

4. Learned counsel for the respondent opposed the application for the reasons that the condonation of delay can not be treated as sufficient cause to entertain the application. It is submitted that the compensation awarded by the reference Court is based upon the evidence adduced in the matter and there is absolutely no case to be considered in the appeal.

5. On due consideration of the submissions

advanced in the light of overall facts of the case, the challenges raised in the appeal, I am of the view that the case is made out to condone the delay. Keeping in mind the broad principles laid down in the case of ***Esha Bhattacharjee V/s Managing Committee of Raghunathpur Nafar Academy and others reported in (2013)12 S.C.C. 649***, I am of the view that the delay deserves to be condoned. The delay caused in filing appeal can not be said to be inordinate delay. If delay is condoned, no serious prejudice would be caused to the other side as the appeal will be decided on its own merit. So also the applicability of the decision of Full Bench of this Court in the case of the State of Maharashtra V/s Kailas Shiva Rangari [supra] also needs to be considered. I am, therefore, inclined to allow the application and condone the delay.

6. The application is allowed. Delay is condoned. The appeal be registered and place for admission on 18/06/2019.

7. S.O. 18/06/2019.

[V.L.ACHLIYA]
JUDGE

KNP.