

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

Civil Application No. 04528 of 2019
(In First Appeal Stamp No. 15445/2012)

District : Nanded

Gangaram s/o. Maroti,
Age : 64 years,
Occupation : Agriculture,
R/o. Marajwadi,
Taluka Mukhed,
Dist. Nanded.

.. Applicant
(Original
claimant)

versus

1. The State of Maharashtra,
Through District Collector,
Nanded.
2. The Special Land Acquisition
Officer,
M.I.W., Krishna Khore,
Nanded.
3. The Executive Engineer,
Vishnupuri Project Division,
Jangamwadi, Nanded,
Now this office is converted
& shifted,
as Executive Engineer,
Lendi Project Division,
At Degloor, Taluka Degloor,
Dist. Nanded.

.. Respondents
(Original
respondents)

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Mr. G.N. Chincholkar, Advocate, for the applicant.

*Mr. A.M. Phule, Assistant Government Pleader, for
respondents no.01 and 02.*

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 30TH AUGUST 2019

ORDER :

01. Present application has been filed for getting delay of 2289 days condoned in filing first appeal. The applicant is the original claimant who intends to file appeal challenging the judgment and award passed in L.A.R. No. 398 of 2009 (New) i.e. L.A.R. No. 377 of 2006 (Old), dated 21-01-2012, by the learned Civil Judge (Senior Division), Link Court, Mukhed, District Nanded.

02. It is contended by the applicant, that the registration of his first appeal was refused on 21-08-2012 by the learned Registrar [Judicial] on the ground that the objections have not been removed. The main objection was to pay deficit court-fee of Rs. 16,380/- and there were other objections. He submits that there is delay of about six years in filing the civil application. The delay was on the count that he was unable to pay court-fee as he is a poor farmer and the first appeal was to be filed for enhancement in the compensation. He submits that if the delay is not condoned, then he would suffer great loss. He also says that the First Appeal No. 988 of 2012 of the same village, arising out of same project and same award has been allowed on 01-10-2018. He has therefore, prayed for condoning the delay and

permitting him to remove office objections.

03. Heard learned Advocate Mr. G.N. Chincholkar appearing for the applicant. Heard learned AGP Mr. A.M. Phule appearing for respondents no.01 and 02. In order to cut short, it can be said that both of them have argued in support of their respective contentions. The State of Maharashtra is objecting the application on the ground that the huge and inordinate delay has not been properly explained.

04. It is to be noted that the learned Registrar [Judicial] while passing the order on 21-08-2012 has observed that in spite of notification of the objections, the appellant has not taken any steps and therefore, the registration was refused. That means, earlier also, opportunity was given to the applicant to remove those office objections. Now, after about 07 years, it appears that the applicant has shown readiness to remove those office objections only on the ground that the first appeal from the same village and the same project was allowed by this Court on 01-10-2018. Only on the ground that he is a poor farmer and could not collect the deficit court-fee, it cannot be stated that the inordinate delay of 07 years has been properly explained. Though the Hon'ble Apex Court has laid down that while dealing with any application for condonation of delay, approach of the Court should be pragmatic and not

pedantic, yet, it would be applicable to those cases only where there is no inordinate delay. Here, only on the ground that he is a poor person, it cannot be said that he could have waited for 07 years to collect the said amount of deficit court-fee to the extent of Rs.16,380/-. There were no steps taken for partial removal of objections also, when one of the objections was that the names of respondent no.02 and 03 differ in comparison with certified copy. At least, that could have been got removed which could have shown his *bona fides*. Therefore, taking into consideration this aspect, it cannot be stated that any just and reasonable ground has been shown for condoning the delay.

05. In the light of above, the application is hereby rejected.

(Smt. Vibha Kankanwadi)
JUDGE

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