

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

CIVIL APPLICATION (CAO) NO. 1510 OF 2019
IN MISC. CIVIL APPLICATION ST. NO. 6355 OF 2019
IN FIRST APPEAL NO. 522 OF 2009

(Ramesh Fakira Ingole vs. The State of Maharashtra thr. the Collector, Yavatmal & Ors.)

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

Court's or Judge's orders.

Shri S.U. Nemade, Advocate for the applicant -
appellant.

Ms. H.N. Jaipurkar, AGP for non-applicant –
respondent Nos. 1 & 2.

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CORAM : PUSHPA V. GANEDIWALA, J.
NOVEMBER 07, 2019.

Heard learned counsel for the parties.

This is an application filed on behalf of -
applicant/ appellant for condonation of delay of 1979
days in filing application for restoration of First
Appeal, which was dismissed in default for want of
filing of private paper on 11.09.2013. It is stated that
the aforesaid delay was occurred because the
appellant could not notice conditional order passed
by this Court on 03.07.2013 and the dismissal of
appeal on 11.09.2013 due to non filing of private
paper book.

It is further submitted that the First Appeal

filed by the present applicant – appellant was clubbed along with other Appeals which arose out of the common notification and paper books in those appeals had already been filed. The applicant was under bonafide belief that he would not be required to file separate paper book.

The learned counsel for the applicant - appellant submits that those appeals have already been decided by this Court and the compensation in those appeals has been enhanced.

The learned AGP appearing on behalf of non-applicant Nos. 1 & 2 opposed the application for want of sufficient reason.

The reason as stated in the application appears to be plausible and as other appeals arising out of the common notification were clubbed with the present appeal of the applicant – appellant, in the interest of justice delay of 1979 days caused in filing restoration application, needs to be condoned. In these facts, a useful reference can be made to a judgment of the Hon'ble Apex Court in the case of K. Subbarayudu vs. Land Acquisition Officer, reported at (2017) 12 SCC 840, wherein the Hon'ble Apex Court condoned delay of 3671 days which was caused in filing Appeal by the agriculturist – claimant observed that the obligation of the Court dealing with application for condonation of delay in Land

Acquisition matters for enhancement of compensation in case of land of agriculturists, wherein the lifeline of agriculturist is lost, the Courts ought to adopt a pragmatic approach to award just and reasonable compensation and not a pedantic approach.

In this view of the matter and considering the observation of the above mentioned judgment of the Hon'ble Apex Court, delay of 1979 needs to be condoned and the same is accordingly condoned. Civil application is allowed. First Appeal No. 522 of 2009 is restored to file and heard finally.

FIRST APPEAL NO. 522 OF 2009

Heard Shri N.U. Nemade, learned counsel for the appellant and Ms. H.N. Jaipurkar, learned AGP for respondent Nos. 1 & 2.

The learned counsel for the appellant submits that the question to be decided in this Appeal is already covered by the judgment of this Court rendered in First Appeal No. 90 of 2009 on 04.10.2019 (*Ranba s/o Kacharu @ Pandhari Dorate & Anr. vs. The State of Maharashtra thr. the Collector, Yavatmal & Ors.*). The present appeal also arose out of the same Land Acquisition proceedings as in First Appeal No. 90 of 2009.

In this appeal also land of the appellant is

situated at village – Kurali adjacent to the village – Ghamapur and the land is dry crop land. In the abovesaid judgment, this Court has granted Rs.83,000/- per hectare for dry crop land against the Reference Court order of Rs.27,000/- per hectare.

The learned AGP appearing for the respondent Nos. 1 & 2 has fairly conceded to this fact.

In that view of the matter, the judgment of the Reference Court is quashed and set aside. The respondents are directed to pay compensation to the appellant @ Rs.83,000/- per hectare for the acquired land bearing Survey No. 89, area ad measuring 2.02 Hectare along with all statutory benefits under the Land Acquisition Act.

The respondents are directed to deposit the balance amount of compensation before this Court within a period of six months.

First Appeal No. 522 of 2009 is partly allowed and disposed of in the above terms with no order as to costs.

JUDGE

*GS.