

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 10111 OF 2016 IN
FIRST APPEAL ST. NO. 3555 OF 2016

Ram s/o Narayan Galphade

Applicant

Versus

The State of Maharashtra
& another

Respondents

Shri N.P. Bangar, Advocate for the applicant.
Shri S.N. Morampalle, AGP for respondent No. 1.

CORAM : M.G. Sewlikar, J.

DATE : 7th February, 2020.

PER COURT :

1. This application is filed for condonation of delay of 2925 days in filing First Appeal.

2. The applicant has alleged that his only source of income was the land which has been acquired. Because of the acquisition, he has become landless. The amount awarded by the Reference Court is meager and the State still has not deposited the amount of compensation. Therefore, on account of poor financial condition he could not present the appeal within the statutory period of limitation.

He has therefore prayed for condonation of delay.

3. Learned AGP for the State argued that no sufficient cause is made out for condonation of delay. Respondent No. 2 is absent though duly served.

4. In the case of **Ningappa Thotappa Angadi Vs. Special Land Acquisition Officer and another** in Civil Appeal No. 9415/2019 arising out of Special Leave Petition (C) No. 11015/2017, the Honourable Supreme Court has held as under :-

8. We find that the issue raised in this appeal is no longer res-integra. This Court in **Dhiraj Singh (Dead) through LRs. and others Vs. State of Haryana and others** held that :

“14. The appellants are identically situated and there is no reason to meet out a different treatment to them. We also note that, while in these cases, the High Court had refused to condone the delay and dismissed the LPAs of the appellants, other LPAs were allowed by the High Court itself by condoning the delay of the same magnitude in the same circumstances.

15. Equities can be balanced by denying the appellants' interest for the period for which they did not approach the Court. The substantive rights of the appellants should not be allowed to be defeated on technical grounds by taking hypertechnical view of self-imposed limitations. In the matter of compensation for land

acquisition, we are of the view that approach of the Court has to be pragmatic and not pedantic.

(Emphasis applied)

5. In the light of this authority, it is always desirable to have a decision on merits than to dismiss the appeal on the ground of delay.

6. Shri Bangar, learned counsel for the applicant states that in case the delay is condoned, the applicant will not claim interest for the period of delay.

7. In view of the above, application is allowed, delay is condoned. The applicant shall not be entitled to the interest and/or statutory benefits for the period of delay in case, he succeeds in appeal.

8. Civil application stands disposed of.

(M. G. SEWLIKAR)
Judge