

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

930 CIVIL APPLICATION NO.5101 OF 2018
IN FAST/8163/2018

APPA TULSHIRAM THAKARE (DIED) THR LRS LILABAI APPA THAKARE
VERSUS
THE SPECIAL LAND ACQUISITION OFFICER, NANDURBAR AND ANR

...
Advocate for Applicant : Shri Dharashive h/f Shri S.V. Bhosale
AGP for Respondent Nos. 1 & 2 : Shri R.V. Dasalkar

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CORAM : M.G.SEWLIKAR, J.

DATE : 13th MARCH, 2020.

PER COURT :

- . Heard the learned counsel for the parties.
2. This is an application for condonation of 2634 days delay caused in preferring Appeal.
3. It is contended in the application that after the decision of the Reference the husband of the applicant passed away. She is issue less and there is no one look after her and because of which she could not prefer appeal within the prescribed period of limitation.
4. The learned A.G.P. for respondent Nos. 1 & 2 has strongly opposed this application on the ground that no sufficient cause is made out for the condonation of the delay. He argued that in case the delay is condoned the applicant will not claim interest and/or statutory

benefits from the date of award till the date of this order.

5. The learned counsel for the applicants Shri Dharashive placed reliance on **Ningappa Thotappa Angadi Vs. Special Land Acquisition Officer and another** decided on 13.12.2019 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)

6. In the aforesaid case the period of delay was 2928 days. Having regard to the law laid down by the Hon’ble Supreme Court,

the delay caused in preferring the appeal can be condoned subject to conditions that the applicant shall not claim interest and/or statutory benefits from the date of award till the date of this order.

7. The application for condonation of delay is allowed on condition that if the applicant succeed in appeal she shall not claim interest and/or statutory benefits from the date of award till the date of this order.

8. The civil application is disposed of.

9. Copy of this order be placed in Appeal.

[M.G.SEWLIKAR]
JUDGE

mahajansb/