

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

949 CIVIL APPLICATION NO.5769 OF 2019
IN FAST/9204/2019
WITH CA/5771/2019 IN FAST/9298/2019

THE STATE OF MAHARASHTRA THR COLLECTOR OSMANABAD AND
OTHERS
VERSUS
ASMODDIN S/O HANIFF MULLA

...
AGP for Applicants : Shri S.G. Sangle
Advocate for Respondent : Smt. L.R. Thakur h/f Shri Patil Laxmikant C.

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CORAM : M.G.SEWLIKAR, J.

DATE : 13th MARCH, 2020.

PER COURT :

. Heard the learned counsel for the parties.

2 These are the applications for condonation of delay of 1490 days in filing appeal.

3. It is contended in the applications that the delay is caused on account of procedural aspects. As the draft of appeal was forwarded to the Higher Authority for its approval but, the approval did not arrive within the stipulated period of limitation. Hence, the delay of 1490 days is caused. The delay is not intentional.

4. The learned counsel Smt. Thakur, for the respondent strongly opposed these applications on the ground that no sufficient cause is made out by the applicants for the condonation of delay. She argued that in case the delay is condoned the applicants will deposit

the entire amount of compensation with interest thereon if not already deposited in this Court till today within a period of six weeks.

5. The AGP for the State/applicants 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 Hon'ble 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 applicants will deposit the entire amount of compensation with interest thereon if not already deposited in this Court till today within the period of six weeks.

7. The applications for condonation of delay are allowed. The delay is condoned on condition that the applicants will deposit the entire amount of compensation with interest thereon if not already deposited in this Court till today within the period of six weeks.

8. The civil applications are disposed of.

9. Copy of this order be kept in Appeal.

[M.G.SEWLIKAR]
JUDGE

mahajansb/