

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 14662 OF 2016 IN
FIRST APPEAL ST. NO. 29482 OF 2016

Madhukar s/o Shankar Patil

Applicant

Versus

The State of Maharashtra
& others

Respondents

Shri K.M. More, Advocate for the applicant.
Shri P.M. Kulkarni, AGP for respondents No. 1 and 2.

CORAM : M.G. Sewlikar, J.
DATE : 7th February, 2020.

PER COURT :

1. This application is filed for condonation of delay of 2166 days in preferring First Appeal.

2. Learned counsel Shri K.M. More states that advocate Shri R.C. Patil is no more alive. He has therefore filed vakalatnama for the applicant.

3. Applicant has alleged that because of the acquisition he has become landless. Acquired land was the only source of income

for him. He is now earning his livelihood by working as agricultural labour. He lives in tribal area where means of communication are limited, owing to which he did not get the knowledge of disposal of the reference by the Reference Court. His financial condition has also become poor as he has lost the only source of income because of the acquisition. The delay has been committed owing to all these reasons.

4. Learned AGP for the State has opposed the application contending that no sufficient cause is made out.

5. 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)

6. 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.

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

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

9. Civil application is disposed of.

(M. G. SEWLIKAR)
Judge

dyb