

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

928 CIVIL APPLICATION NO. 13126 OF 2019
IN FAST/28969/2019

DEVAKABAI NARAYAN PATIL AND ANR
VERSUS
THE SPECIAL LAND ACQUISITION OFFICER (1) UPPAR TAPI PROJECT,
(HATNOOR) JALGAON AN
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931 CIVIL APPLICATION NO.13169 OF 2019
IN FAST/30454/2019

PRAKASH TUKARAM PATIL
VERSUS
THE SPECIAL LAND ACQUISITION OFFICER, M.I.D. JALGAON AND ANR
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932 CIVIL APPLICATION NO.13185 OF 2019
IN FAST/28993/2019

ARUN RAGHUNATH PATIL
VERSUS
THE SPECIAL LAND ACQUISITION OFFICER - 1 U.T.P.H JALGAON AND
ANR
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Advocate for Applicant : Mrs. Kirti A. Deshpande h/f
Mr. Madhav M. Bhokariker
AGP for Respondent No. 1 : Mr. S.P. Deshmukh, Mr. Y.G. Gujrathi,
Mr. R.B. Bagul in respective applications
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CORAM : K.K. SONAWANE, J.

DATED : 9th JANUARY, 2020.

ORDER :-

1. Heard learned counsel for appearing parties. Despite service of notice, no appearance is caused on behalf of respondent No. 2-Acquiring Body.
2. Perused the applications and relevant documents produced on record. It has been submitted on behalf of the applicants that delay

caused in filing the appeals is not intentional or deliberate but it caused due to unavoidable circumstances as well financial crises for filing the present appeals. The learned counsel further added that applicants - appellants will not claim statutory benefits as well as amount of interest as laid down in the Land Acquisition Act, 1894, for the period of delay sought to be condoned, in case of success of appeals on merit. Hence, learned counsel for applicants prayed for condonation of delay.

3. The learned AGP for respondent No. 1 – State authority submits that there is inordinate delay, which has not been explained satisfactorily, therefore, the same cannot be condoned and prayed for rejection of application.

4. Perused the application and relevant documents on record. Admittedly, the matters pertain to enhancement of compensation for the land under acquisition. The learned Reference Court partly allowed the Reference Petition filed by the applicants under section 18 of the Land Acquisition Act, 1894. The applicants intend to challenge the findings for awarding meagre compensation amount and also intend to seek enhancement of compensation.

5. In view of the aforesaid submissions and for the reasons mentioned in the applications that the delay so caused in filing the appeal was only due to unavoidable circumstances as well financial crises, I find it justifiable to give reasonable opportunity to the applicant-appellant in the interest of justice to ventilate grievances before the Appellate Forum. There is sufficient cause to allow the applications for condonation of delay. In addition, the applicants-claimants have shown their willingness / inclination that they will not claim statutory benefits as well as amount of interest as mentioned above. In such circumstances, by imposing aforesaid fetter of waiver of statutory benefits and interest amount etc. on the part of applicants-appellants, there would not be any impediment to condone the delay. It is settled law that liberal and pragmatic approach is essential to be adopted by avoiding pedantic approach while dealing with the

application for consideration of delay. The applications for condonation of delay required to be allowed.

6. In sequel, applications are allowed in terms of prayer clause "B". The delay caused to present the appeals against the impugned Judgment and Award stands condoned subject to condition that applicants-appellants shall not claim statutory benefits as well as amount of interest as laid down in the Land Acquisition Act, 1894 for the delayed period allowed to be condoned, in case, any enhanced compensation is awarded by this Court after adjudication of appeals on merit.

7. Pursuant to aforesaid waiver of statutory claim, the applicants-appellants shall furnish undertakings to that effect and place it on record of the appeals to enable this Court to take note of the same, while decision of the appeals on merit. Registry to take requisite steps for further process.

8. The civil applications are allowed in aforesaid terms and stand disposed of.

9. On registration of appeals, issue notice to the respondents, returnable on 13-02-2020. Learned AGP waives service of notice for respondent No. 1.

10. Meanwhile, call for record and proceedings from the concerned learned Reference Court.

11. After compliance of procedural formalities, list the appeals for further process on 13-02-2020.

[K. K. SONAWANE]
JUDGE