

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

16 CIVIL APPLICATION NO.1735 OF 2019
IN FAST/1786/2019

EX. ENGINEER, HATNUR CANAL DIV. CHOPDA UNDER JALGAON MEDIUM
PROJECT DIV. JALGAON

VERSUS

THE SPECIAL LAND ACQUISITION OFFICER U.T.P.H. (3) JALGAON AND
ORS

...

Advocate for Applicant : Shri D.R. Shelke
AGP for Respondent No. 1: Shri A.V. Deshmukh

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CORAM : M. G. SEWLIKAR, J.

DATE : 08th FEBRUARY, 2021.

PER COURT :

1. Heard Shri Shelke, learned counsel for the applicant-acquiring body and Shri Deshmukh, learned AGP for respondent No.1-State.
2. Respondent Nos. 2 and 3 have been served but none appears for them.
3. Delay is of 1638 days. It is alleged that the delay is caused because of the administrative formalities. According to the applicant huge Court fee amount was to be paid and for that budgetary provision had to be made. Therefore, delay has been committed on account of procedural formalities. The delay is not intentional nor deliberate. He

prayed for condonation of delay.

4. Learned AGP Shri Deshmukh, for respondent No. 1-State has no objection for condonation of delay subject to depositing of entire amount of compensation including accrued interest thereon.

5. In para No. 3 of the application the applicant has assigned the cause for delay to the effect that for the payment of huge Court fee amount, budgetary provision is required to be made and the financial sanction had to be obtained. In view of this, applicant has made sufficient cause for condonation of delay.

6. The Hon'ble Supreme Court in the case of **Ningappa Thotappa Angadi Vs. Special Land Acquisition Officer and another decided on 13.12.2019 in Civil Appeal No. 9415 of 2019 arising out of Special Leave Petition (C) No. 11015 of 2017**, has held as under :-

"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 hyper-technical 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."

7. Having regard to the law laid down by the Hon'ble Supreme Court matter cannot be dismissed solely on the ground of delay. At the most what will happen is that the matter will be heard on merits. In view of this, I am inclined to condoned the delay.

8. Shri D.R. Shelke, learned counsel for the applicant submitted that amount of compensation had been deposited in Reference Court. He produced on record xerox copy of the letter dated 30.1.2016. It shows that a cheque of Rs. 1,49,47,675/- was annexed. The letter bears endorsement of the clerk of Civil Judge S.D., Amalner, Dist. Jalgaon.

9. In view of this, it appears that an amount of compensation is deposited in the reference Court. Delay is therefore, condoned. If it is transpired subsequently that amount of compensation was not paid, the same be paid immediately.

10. Civil Application is disposed of.

(M. G. SEWLIKAR)
JUDGE

mahajansb/