

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

25 CIVIL APPLICATION NO.3517 OF 2019
IN FAST/3896/2019

BAJAJ ALLIANZ GENERAL INSURANCE COMPANY LIMITED THR ITS
BRANCH MANAGER
VERSUS
SUMAN TRIMBAK PALVE AND ORS

...
Advocate for Applicant : Shri Chapalgaonkar S.G.
Advocate for Respondent Nos. 1 & 2 : Shri Ambetkar Arvind G.
Advocate for Respondent No. 3 : Shri Avhad A.P.
...

CORAM : M. G. SEWLIKAR, J.

DATE : 08th FEBRUARY, 2021.

PER COURT :

1. Heard shri Chapalgaonkar, learned counsel for the applicant and Shri Ambetkar, learned counsel for respondent Nos. 1 and 2 and Shri Avhad, learned counsel for respondent No. 3.
2. In the application the applicant has alleged that the delay was caused in preferring appeal because of procedural formalities. He submitted that due to technical error the amount of Court fees could not be remitted on line in time. Therefore, delay is caused in preferring the appeal. He submitted that delay is neither intentional nor deliberate.
3. Shri Ambetkar, learned counsel for respondent Nos. 1 and 2

objected for the condonation of delay stating that this cannot be a cause, much less sufficient cause for condonation of delay.

4. Shri Avhad, learned counsel for respondent No. 3 has submitted that no sufficient cause is made out for condonation of delay.

5. Applicant has deposited entire amount of compensation. The applicant has made out sufficient cause for condonation of delay. According to him amount which was to be remitted online could not be remitted because of technical glitches. The applicant therefore, has made out sufficient cause for condonation of delay. Moreover, respondent can be adequately compensated with cost.

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 a matter cannot be dismissed solely on the ground of delay. At the most what will happen the matter will be heard on merits. In view of this, I am inclined to condoned the delay subject to depositing of entire amount with accrued interest, within a period of two months.

8. In view of this, delay is condoned subject the applicant-State depositing the entire amount of compensation with accrued interest there on till the date of depositing of entire amount within the period of two months, failing which application shall stand dismissed.

(M. G. SEWLIKAR)
JUDGE

mahajansb/