

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 5234 OF 2020 IN
FIRST APPEAL ST. NO. 6683 OF 2020

Uddhavrao Ashruba Late
(Deceased through LRs) & others

Applicants

Versus

The State of Maharashtra & others

Respondents

WITH
CIVIL APPLICATION NO. 3461 OF 2018 IN
FIRST APPEAL ST. NO. 38057 OF 2017
WITH
CIVIL APPLICATION NO. 3462 OF 2018 IN
FIRST APPEAL ST. NO. 38211 OF 2017
WITH
CIVIL APPLICATION NO. 3468 OF 2018 IN
FIRST APPEAL ST. NO. 37806 OF 2017
WITH
CIVIL APPLICATION NO. 3481 OF 2018 IN
FIRST APPEAL ST. NO. 37781 OF 2017
WITH
CIVIL APPLICATION NO. 3613 OF 2018 IN
FIRST APPEAL ST. NO. 37808 OF 2017
WITH
CIVIL APPLICATION NO. 3614 OF 2018 IN
FIRST APPEAL ST. NO. 37802 OF 2017
WITH
CIVIL APPLICATION NO. 5261 OF 2020 IN
FIRST APPEAL ST. NO. 5696 OF 2020
WITH
CIVIL APPLICATION NO. 6605 OF 2020 IN
FIRST APPEAL ST. NO. 8174 OF 2020
WITH
CIVIL APPLICATION NO. 6607 OF 2020 IN
FIRST APPEAL ST. NO. 5702 OF 2020

Mr. D.M. Kakade, Advocate for the applicants.
Mr. P.M. Kulkarni, AGP for State.
Mr. S.C. Arora, Advocate for acquiring body.

CORAM : M.G. Sewlikar, J.
DATE : 16th February, 2021.

PER COURT :

1. Heard.
2. The applicants have mentioned the cause of delay as poor financial condition. He could not arrange for the legal expenses and Court fees because of their poor financial condition. Therefore, the applicants have made out sufficient cause for condonation of delay.
3. 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)

4. 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.

5. Shri Kakde, learned counsel for applicants, states that the applicants will not claim interest and/or statutory benefits for the period of delay.

6. In view of above, applications are allowed, delay is condoned. Applicants shall not be entitled to interest and/or statutory benefits for the period of delay.

8. Civil applications stand disposed of.

(M. G. SEWLIKAR)
JUDGE

dyb