

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

CIVIL APPLICATION NO.4842 OF 2018

IN

FIRST APPEAL (STAMP) NO. 7561 OF 2018

**SUKHLAL DEOLA RATHOD (DIED) THR LRS KESHARIBAI
AND ORTHERS**

VERSUS

**SPECIAL LAND ACQUISITION OFFICER, M.I.W. JALGAON
AND ANOTHER**

....

Mr. Atmaram J. Patil, Advocate for the Applicant.

Mr. B.V. Virdhe, , AGP for Respondent No.1

Ms. Chaitali Choudhary Kutti, Advocate for Respondent No.2

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CORAM : SHRIKANT D. KULKARNI, J.

DATE : 28th OCTOBER, 2021

PER COURT:-

1. It is an application for condonation of delay moved by the applicants by taking aid of Section 5 of the Limitation Act, 1963. Perused the reply submitted by the State/ respondent no.1.

2. Heard Mr. Atmaram Patil, learned counsel for the applicant, Mr. B.V. Virdhe, learned AGP for respondent no.1 and Ms. Chaitali Choudhary Kutti, learned counsel for respondent no.2 / acquiring body.

3. There seems to be delay of 2356 days in preferring the first appeal against the judgment and award dated 28.06.2011, passed by the Civil Judge, Senior Division at Jalgaon in L.A.R. No.654 of 2000.

4. Mr. Patil, learned counsel for the applicant has placed his reliance on the decision of this Court, Bench at Nagpur in respect of condonation of delay (Civil Application (F) No.1211/2019 in First Appeal Stamp No.21865/2018 dated 2012.2019). He submitted that the facts of the case in hand, and the facts of the cited case are identical. This Court Bench at Nagpur was pleased to condone the delay near about twelve years by referring various citations of the Apex Court. He submitted that the applicants are poor, illiterate and tribal persons. They were facing financial crises. They could not prefer the appeal within time. It is necessary to condone the delay in the interest of justice.

5. Mr. Virdhe, learned AGP for respondent no.1 / State and Ms. Chitali Choudhary Kutti, learned counsel appearing for the acquiring body / respondent no.2 strongly opposed to condone the delay. Both of them submitted that no sufficient reasons are

assigned by the applicants to condone the delay. The delay caused in this case is inordinate and it may not be proper to condone the delay when there are no satisfactory reasons.

6. The delay should not be a hurdle in dispensation of justice and the Court is required to take a liberal approach while deciding the applications in view of the catena of decisions of the Hon'ble Supreme Court. This Court Bench at Nagpur, in civil application (F) No.1211/2019 in first appeal (stamp) no.21865/2018, was pleased to condone the delay near about twelve years by placing reliance on the citations of the Hon'ble Supreme court in cases of *Dhiraj Singh (Dead) thourh L.Rs. Vs. Haryana State and others [(2014) 14 SCC 127]*, *Imratlal and others Vs. Land Acquisition Collector and others [(2014) 14 SCC 133]* and *Pralhad Dhone Vs. State of Maharashtra [2019 (6) ALL MR 177]*.

7. Having regard to the above reasons and discussion and in view of the facts of the case in hand, it is necessary to condone the delay. At the same time, it cannot be overlooked that the applicants cannot be entitled to claim the statutory benefits and the interest for the delayed period.

8. In view of the above, I proceed to pass the following order:

ORDER

(i) The application for condonation of delay is hereby allowed on condition that the applicants shall not claim statutory benefits and interest as per the provisions of the Land Acquisition Act, 1894 for the delayed period, which is condoned by this Court.

(ii) The applicants shall furnish undertaking to that effect with the Registrar (Judicial) of this Court.

(iii) On furnishing the undertaking by the applicant, the appeal be registered after due scrutiny and it be numbered and be placed for admission.

(iv) The civil application stands disposed of.

[SHRIKANT D. KULKARNI]
JUDGE