

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

7 CIVIL APPLICATION NO.9090 OF 2018
IN FAST/9624/2018
WITH CA/9092/2018 IN FAST/10374/2018

EXECUTIVE ENGINEER, IRRIGATION PROJECT MAJBUTIKARAN DIVISION,
OMERG THR M.K.V.D.C. PUNE AND ORS
VERSUS
SIDRAM TUKARAM CHAVAN

...
Advocate for Applicants : Smt. Sunita D. Shelke
Advocate for Respondent : Smt. L.R. Thakur h/f Shri Patil Laxmikant C.
...

CORAM : M.G.SEWLIKAR, J.

DATE : 8th FEBRUARY, 2021.

PER COURT :

1. Heard Smt. Shelke, learned counsel for the applicants and Smt. Thakur h/f Shri Patil learned counsel for the respondent.
2. Delay is of 1107 days. Smt. Shelke, learned counsel for the applicants submitted that the delay was caused because of administrative procedure. The delay is not intentional.
3. Smt. Thakur, h/f Shri Patil, learned counsel for the respondent submitted that the delay is intentional. She further stated that if the Court comes to the conclusion that the delay deserves to be condoned it should be condoned subject to depositing of entire amount with accrued interest thereon.

4. In the application for condonation of delay it is alleged that because of administrative exigency and raising of funds the application could not be preferred within the prescribed period of limitation.

5. 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."

6. 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 condone the delay subject to depositing of the entire amount with accrued interest, till the date of depositing of the amount.

7. In view of this, delay is condoned subject to the applicant-State depositing the entire amount of compensation with accrued

interest thereon till the date of depositing of entire amount within a period of twelve weeks failing which application shall stand dismissed.

8. Stand over to 3.5.2021.

[M.G.SEWLIKAR]
JUDGE

mahajansb/