

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

9 CIVIL APPLICATION NO.195 OF 2019
IN FAST/10985/2018

EXECUTIVE ENGINEER, IRRIGATION PROJECT MAJBUTIKARAN DIVISION,
OMERGA THR M.K.V.D.C. PUNE AND ORS
VERSUS
SURESH KRUSHNAJI BIRAJDAR PATIL (DEAD) THR LRS SUJATA AND ORS

...
Advocate for Applicants : Smt. Sunita D. Shelke
Advocate for Respondents : Smt. L.R. Thakur
...

CORAM : M.G.SEWLIKAR, J.

DATE : 8th FEBRUARY, 2021.

PER COURT :

1. Heard Smt. Shelke, learned counsel for the applicants and Smt. Thakur learned counsel for the respondents.
2. Smt. Thakur, learned counsel for respondents undertake to file Vakalatnama within the period of twelve weeks. She says that she has instructions to appear on behalf of respondents in this matter.
2. Delay is of 1096 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, learned counsel for the respondents 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 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/