

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

41 CIVIL APPLICATION NO.500 OF 2018
IN FAST/37479/2017

JAGANNATH NARAYAN KULKARNI AND ANR
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...
Advocate for Applicant : Shri Kakade Deepak M.
AGP for Respondent Nos. 1 & 2 : Shri P.M.Kulkarni
Advocate for Respondent No. 3 : Shri Bhalerao Sudhir G.
...

CORAM : M. G. SEWLIKAR, J.

DATE : 15th FEBRUARY, 2021.

PER COURT :

1. Heard.
2. Shri Kakade, learned counsel for the applicant submitted that the delay is of 2820 days is caused in filing appeal due to poor financial condition of the applicant. He further submitted that in identical matters delay has been condoned on the ground that applicant waived interest for the delayed period.
3. He further submitted that the applicant is poor. He has lost his only source of income i.e. the land. Therefore, he could not prefer appeal within the prescribed period of limitation. He further submitted that the applicant is ready to waive interest for the delayed period.

4. Shri Kulkarni, learned AGP for respondent Nos. 1 and 2 and Shri Bhalerao, learned counsel for respondent No. 3 objects for condonation of delay contending that no sufficient cause is made out.

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 condoned the delay.

7. For the reasons stated in the application it is clear that because of lack of resources the applicant could not prefer appeal within the prescribed period of limitation. Therefore, sufficient cause is made out to condone delay. The delay is condoned subject to condition

that the applicant will not entitled to claim the statutory benefits or the interest for the period of delay.

8. Civil Application is disposed of.

9. Appeal be registered if it is otherwise fit for registration.

(M. G. SEWLIKAR)
JUDGE

mahajansb/