

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

10 CIVIL APPLICATION NO.207 OF 2019
IN FAST/37842/2018

NATIONAL INSURANCE CO. LTD., THR ITS ADMINISTRATIVE OFFICER
VERSUS
REKHA SHAHAJI JADHAV AND ORS

...
Advocate for Applicant : Shri A.S. Usmanpurkar h/f Shri Upadhye
Vinayak Narayan

Advocate for Respondent Nos 1 to 4 : Adv Yatish G. Gujrathi

Advocate for Respondent Nos. 5 & 7 : Shri D.D. Pokharkar

Advocate for Respondent No. 8 : Shri B. N. Gadegaonkar

Advocate for Respondent No. 9 : Shri R.M. Gaikwad h/f Shri M. M.
Ambhore

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CORAM : M.G.SEWLIKAR, J.

DATE : 8th FEBRUARY, 2021.

PER COURT :

1. Heard Shri Usmanpurkar, h/f Shri Upadhye, learned counsel for the applicant, Shri Pokharkar, learned counsel for respondent Nos. 5 and 7, Shri Gadegaonkar, learned counsel for respondent No. 8 and Shri R.M. Gaikwad, learned counsel h/f Shri Ambhore, learned counsel for respondent No. 9.

2. Delay of 96 days is committed in preferring the appeal. According to the applicant delay was caused on account of administrative hierarchy. A proposal of appeal was forwarded to the Regional Office at Pune and on account of it the delay is committed.

3. Learned counsel for the respondents objected to the condonation of delay on the ground that no cause much less sufficient

cause, is made out. They therefore prayed for rejection of the application.

4. As stated above, delay of 96 days caused in preferring the appeal. Applicant has made out a sufficient cause for condonation of delay. It is alleged that file was sent to Pune Office and delay was caused in preferring appeal. In the opinion of this Court delay can be condoned on cost.

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 subject to payment of

cost of Rs. 10,000/- to be paid to the claimants.

7. Amount of cost be deposited in this Court within a period of one month from today failing which application shall stand dismissed.

8. Office to accept the amount of cost if deposited within the stipulated period.

[M.G.SEWLIKAR]
JUDGE

mahajansb/