

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

47 CIVIL APPLICATION NO.6273 OF 2019
IN FAST/39325/2018

BALASAHEB SUKHDEO GAIKWAD AND ANR
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...
Advocate for Applicants : Shri Pawar h/f Shri Hajare Abhishek M.
AGP for Respondent Nos. 1 & 2 : Shri A.A. Jagatkar
...

CORAM : M. G. SEWLIKAR, J.

DATE : 15th FEBRUARY, 2021.

PER COURT :

1. Heard.
2. Shri Pawar, learned counsel h/f Shri Hajare, learned counsel for the applicants submits that delay of 1365 days was caused, however the office has wrongly calculated delay of 6350 days. According to Shri Pawar, learned counsel for applicants the calculation is wrong.
3. On making calculations, it appears that delay of 1365 days is caused in filing the appeal, therefore, there is substance in the submission of Shri Pawar, learned counsel for the applicants.
4. It is alleged in the application that the applicants could not

prefer appeal within prescribed period of limitation because of their poverty and illiteracy. It is further alleged that the applicants have been rendered land less because of the acquisition of the land. They lost the only source of their income. They have not received the amount of compensation also. In view of this, sufficient cause is made out for condonation of delay.

5. Shri. Jagatkar, learned AGP for respondent/State objects for the condonation of delay on the ground that no sufficient cause is made out.

6. 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."

7. 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.

8. Having regard to ground mentioned in the application, it appears that sufficient cause is made out to condone the delay. Application is therefore, allowed. Delay is condoned subject to condition that applicants will not be entitled to statutory benefits or the interest for the period of delay.

9. Civil Application is disposed of.

(M. G. SEWLIKAR)
JUDGE

mahajansb/