

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 1174 OF 2021
WITH
INTERIM APPLICATION NO. 1175 OF 2021
IN
FIRST APPEAL (ST.) NO. 4467 OF 2021**

The Commissioner,
Nashik Municipal Corporation, Nashik Applicant
v/s.
Kailash Eknath Bankar and anr. Respondents

Mr. M.L. Patil for the Applicant.
Mr. Anil Ahuja for the Respondent.
Mr. A.R. Patil, Addl. GP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 18th JUNE, 2021.

P. C. :-

ORDER IN INTERIM APPLICATION NO. 1174 OF 2021 :-

. The Applicant herein who is the Acquiring Body has sought to condone the delay in challenging the order dated 04/09/2018 passed by the Civil Judge, Senior Division, Nashik under Section 18 of the Land Acquisition Act.

2. Mr. Anil Ahuja, learned counsel for the Respondent opposes the Application on the ground that no sufficient grounds have been made to condone the delay.

3. It is stated that the certified copies of the judgment and award were delivered on 20.02.2019 and received by the advocate only on 01.04.2020. It is claimed that though the decision was taken to challenge the judgment, the Appeals could not be filed due to National Lockdown from 23/03/2020.

4. It is a settled law that while considering the prayer for condonation of delay, the Court is required to consider the sufficiency of the cause shown. In the instant case, the cause shown from 23/03/2020 i.e., from the date of lockdown is understandable and constitutes sufficient cause. The question is about the delay from 20/02/2019 till 23/03/2020 i.e., from the date the certified copy of the judgment was received till the date the lockdown was declared. The explanation tendered across the bar is that the file has to move many tables for grant of approval. In the case of ***State of Haryana v/s. Chandra Mani and anr. AIR 1996 SC 1623***, wherein the three Judge Bench of the Hon'ble Supreme Court after taking note of several other decisions held that when the State as an Applicant prays for condonation of delay, it is common knowledge that on account of impersonal machinery and the inherited bureaucratic methodology imbued with the note making, file pushing and passing the buck ethos,

delay on the part of the State is less difficult to understand though more difficult to approve. It is held that the State which represents collective cause of community does not deserve a litigant non-gratis status. The Apex Court has referred to the decision in ***G. Ramegowda, Major, Etc. v/s. Special Land Acquisition Officer, Bangalore (1988) 2 SCC 142*** where delay of over one year was condoned. It was held that the expression 'sufficient cause' should receive liberal construction as to advance substantial justice and generally delay in preferring an appeal are required to be condoned where there is no gross delay, deliberate inaction or lack of bonafides. It is further held that if Appeals brought by Government are lost for such defaults, no person is individually affected but what, in ultimate analyses, suffers is public interest. The Apex Court held that though the law of limitation is equally applicable to the private citizens and the Government authorities, the Court cannot ignore the impact on public interest owing to acts of fraud or bad faiths on the part of its officers or agents, where the officers were clearly at cross-purposes with it. It was held that in assessing what constitutes 'sufficient cause', it might be unrealistic to exclude from consideration these factors which are peculiar to and characteristic of the functioning of the Government.

5. In the instant case, the delay does not appear to be due deliberate inaction or lack of bonafides, but is the cause of bureaucratic red-tapism which as held by the Hon'ble Supreme Court, cannot be approved yet cannot be ignored. Declining to condone the delay in filing an Appeal will impact the public interest as the enhanced amount will have to be ultimately paid from public exchequer. Hence, the delay is condoned subject to payment of costs of Rs.5,000/- (Rupees Five Thousand) to each of the Claimants

6. Interim Application No.1174 of 2021 stands disposed of.

ORDER IN INTERIM APPLICATION NO. 1175 OF 2021 :-

7. Execution and implementation of the impugned judgment and award dated 04/09/2018 shall be stayed subject to the deposit of the entire compensation along with interest and statutory deposits within a period of six weeks from today. In the event, the said amount is not deposited within a period of six weeks, the stay will be vacated without further reference to this Court.

8. Interim Application No. 1175 of 2021 stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)