

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Civil Application (F) No.760/2020 in First Appeal St. No.27601/2018

Amol Chavan

Appellant.

Versus

State of Maharashtra and others

Respondents.

Shri N.M. Kolhe, Adv for appellant.

Ms. T.H. Udeshi, AGP for resp. nos. 1 to 3.

CORAM : ANUJA PRABHUDESSAI, J.

DATED : 10 FEBRUARY 2021

The applicant herein has sought to condone the delay of 530 days in filing the appeal against the judgment and award dated 20-03-2017 in L.A.C. No.120/2004. Learned Counsel for the applicant states that the applicant shall not claim interest for the delayed period.

2. In view of the said statement and in view of the reasons stated in the application, the delay is condoned.

3. Application stands disposed of.

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With consent, heard finally at the stage of admission.

2. The land of the Appellant was acquired for public purpose. He was awarded compensation of Rs. 27,270/-(rupees twenty seven thousand two hundred and seventy only) which was accepted under protest and application was filed under Section 18 of the Land Acquisition Act, 1894, for enhancement of compensation. The records reveal that the Appellant herein had not remained present before the Reference Court and not adduced any evidence to prove that he was entitled for enhanced compensation. The Reference Court, therefore, dismissed the reference for want of evidence. This order is under challenge in the present appeal.

3. The Appellant is an agriculturist whose land was acquired for the public purpose. The appellant has stated that he was not informed by his Advocate about the status of the reference. Hence, he did not remain present before the Reference Court to adduce evidence. In my view, substantive rights of the Appellant should not be allowed to be defeated on technical grounds. Hence, in the facts of the case, an opportunity needs to be given to the Appellant to adduce evidence and to prove that he is entitled for enhanced compensation.

4. Hence, the impugned judgment and award is set aside.

5. The matter is remanded to the Reference Court with direction to give an opportunity to the Appellant to adduce evidence and to decide the matter on merits in accordance with the relevant provisions of law. The applicant is directed to remain present before the Reference Court on 30-03-2021.

6. Appeal stands disposed of.

[Anuja Prabhudessai, J]