

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

923 CIVIL APPLICATION NO.1146 OF 2018
IN FAST/1860/2017
WITH CA/1148/2018 IN FAST/2493/2017
WITH CA/1149/2018 IN FAST/2487/2017

NILKANTH SHESHARAO SAKHARE AND ORS
VERSUS
THE STATE OF MAHARASHTRA THR THE COLLECTOR, LATUR
AND ANR

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Advocate for Applicants :Ms. L. R. Thakur h/for Mr. Patil Laxmikant C.
AGP for Respondents State: Mr. A. B. Chate

CORAM : Y. G. KHOBRAGADE, J.
DATE : 15TH NOVEMBER, 2022

ORDER:

1. The learned counsel appearing for the applicants craves leave to delete name of applicant No.3 in Civil Application No.1146 of 2018 as he expired on 01.06.20007 i.e. even prior to passing of the impugned judgment and award and the applicant Nos. 1 and 2, who are legal heirs of applicant no. 3, are already on recorded. Accordingly leave granted as prayed for. Applicants to carryout necessary amendment.

2. Heard Ms. L. R. Thakur, the learned Advocate appearing for the applicants and Mr. A. B. Chate, learned AGP for the State.

3. Learned counsel for the applicants vehemently canvassed that, on 21.11.2016, the trial court passed impugned judgment and award in Land Acquisition Reference No. 1781/2001 and other connected matters, however, due to financial crises, some time is consumed in collecting necessary documents and to arrange required amount for payment of court fees and therefore delay is caused in filing the appeals, which is bonafide and substantial. Hence, prayed for condonation of the same.

4. The learned AGP has not disputed about the fact of passing of the judgment and award, however, he submitted that the applicants have not explained the delay properly and hence, prayed for rejection of the applications.

5. It is well settled principle of law that the litigant should not be suffered for receiving substantial justice on technical ground and the court should be liberal while condoning the delay, if proper and substantial explanation is given. In the case in hand, it appears that on 21.11.2016, the reference court passed impugned judgment and award under Section 18 of the Land Acquisition Act. However, due to their poor financial condition and as some time is consumed in collecting documents, delay is caused in filing the appeals. Therefore, in

the interest of justice it would be just and proper to condone the delay caused in filing the appeals.

6. Since the applicants claim for enhancement of compensation and there is delay in filing the appeals, so also, though the applicants filed present civil applications along-with first appeals in the year 2017, but again for five years, the applicants did not bother to circulate the matter. Hence to my mind the applicants will not be entitled for the interest and statutory benefits for the delayed period so also for the period which has been consumed in circulating the matter till date. Accordingly, I proceed to pass the following order:-

O R D E R

- i. Civil applications are hereby allowed
- ii. The delay caused in filing appeals is hereby condoned. The applicants will not be entitled for interest and statutory benefits for the delayed period as well as till date of this order.
- iii. Registry of this office is directed to register the appeals and place before this Court for further action.
- iv. Copy of the order be placed in appeals so that at the time of final argument, it can be referred.

(Y. G. KHOBRADE, J.)