

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

CIVIL APPLICATION NO. 11739 OF 2018 IN FAST/1849/2018

PANDURANG DEORAO GAIKWAD

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

WITH

CIVIL APPLICATION NO. 11740/2018 IN FAST/1852/2018

BASVESHWAR SOMNATH BHAGAT

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

WITH

CIVIL APPLICATION NO. 11741/2018 IN FAST/1862/2018

VITTHAL SOMNATH BHAGAT

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

....

Mr. Datta A. Madake, Advocate for the Applicant

Mr. S.G. Sangle, AGP for Respondent No.1 / State

....

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 15th MARCH, 2022

PER COURT:-

1. These are the applications for condonation of delay moved by the applicants / original claimants.

2. Mr. Datta A. Madake, learned counsel has instructions to appear for the applicants in respective applications. Registry to remove the name of Advocate Mr. Vikas S. Tanwade.

3. Heard Mr. D.A. Madake, learned counsel for the applicants / claimants and Mr. Sangle, learned AGP for respondent No. 1 / State. Respondent no.2 / acquiring body though duly served, remained absent when matter is called out.

4. Mr. Madake, learned counsel for the applicants submits that the applicants are poor farmers. Their lands were acquired by way of compulsory acquisition. They could not arrange for the funds, which ultimately resulted in delay. There was no intentional delay on the part of the respective claimants to prefer the appeals. He submits that the applicants / claimants are ready to waive statutory benefits and interest in respect of delayed period. He, therefore, urged to condone the delay.

5. Mr. Sangle, learned AGP for respondent no. 1 / State strongly opposed to condone the delay. He pointed out that there is delay of more than ten years in preferring the appeals. No sufficient reasons are assigned by the applicants / claimants for condonation of delay. The applications are without merit and liable to be dismissed.

6. On perusing the record, it is revealed that in all the applications, there is delay of 3779 days in preferring the appeals, which is more than ten years in every matter. It is true that the delay caused in preferring the appeals is inordinate. However, these are the matters arising out of compulsory land acquisition. The applicants / claimants intend to file appeals for enhancement of compensation. However, they could not prefer the appeals within time. It resulted into delay of more than ten years.

7. Having regard to the guidelines laid down by the Hon'ble Supreme Court in case of *Dhiraj Singh Vs. The State of Haryana* reported in *(2014) 14 SCC, 127*, the delay needs to be condoned by taking pragmatic view. It is a case of payment of compensation to the land owners, whose lands were taken away by compulsory acquisition. The claimants are agriculturists. They could not prefer the appeals within time due to their financial constrain. In the matter of land acquisition where lands of farmers are acquired, a different approach has to be taken. These persons should not be deprived of the reasonable compensation for their lands.

8. Having regard to the guidelines laid down by the Hon'ble Supreme Court in above referred citation and looking to the facts of the case, the delay needs to be condoned though the delay appears to be large in preferring the appeal. Equities can be balanced by denying the appellants' interest and statutory benefits for the delayed period for which they do not approach the Court. In addition to that they can be directed to pay certain costs in each matter. Their substantive rights of the appeal should not be thrown away simply on the ground of technicalities by taking hyper technical view. The approach of the Court has to be pragmatic and not pedantic. In the result, following order is passed.

ORDER

(i) All applications for condonation of delay filed by the respective applicants / claimants are hereby allowed on following conditions.

(a) The respective applicants / claimants shall pay costs of Rs. 5,000/- in each matter with the High Court Legal Services Sub Committee, Aurangabad within one month from today.

(b) The applicants / claimants shall furnish usual undertaking with the Registrar (Judicial) of this Court stating that they shall not claim the statutory benefits and interest in respect of delayed period.

(ii) After making the compliance of the above said directions, the Registry to make scrutiny of the appeals as per procedure and those be numbered and place before the Court for admission.

(iii) The civil applications are accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

S.P. Rane