

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

36 CIVIL APPLICATION NO.5248 OF 2020  
IN FAST/4203/2020

THE EX. ENGINEER, MINOR IRRIGATION DIVISION,  
OSMANABAD

VERSUS

BABRUWAN SOPAN KOLI (DIED)  
THR LRS NANDA AND ORS

...

Advocate for Applicant : Mr S.B. Patil  
Advocate for Respondent Nos. 1 to 4 : Mr R.V. Naiknaware  
AGP for Respondent No. 5/State : Mr P.M. Kulkarni

**CORAM : SHRIKANT D. KULKARNI, J.**

**DATE : 28<sup>th</sup> February 2022**

**PER COURT :**

1. It is an application for condonation of delay moved by the applicant/acquiring body.

2. Heard Mr S.B. Patil, learned counsel for the applicant, Mr R.V. Naiknaware, learned counsel for respondent Nos. 1 to 4 and Mr P.M. Kulkarni, learned AGP for respondent No. 5/State.

3. Mr R.V. Naiknaware, learned counsel appearing for the claimants invited my attention to the previous order passed by this Court of 14<sup>th</sup> February, 2022. He points out that Mr S.B. Patil, learned counsel for the acquiring body was also absent on the previous date. Even then, this Court was pleased to adjourn the matter for two weeks in the interest of justice by making it clear that if the counsel for the applicant/acquiring body remained absent on the next date, the matter would be decided on its own merits. He submitted that accordingly, the matter is fixed today. Again Mr S.B. Patil, learned counsel for the

applicant/acquiring body remained absent. He urged that the application may be rejected. The applicant/acquiring body has not assigned any cogent reason for condonation of delay.

4. Mr Naiknaware, learned counsel for the original claimants pointed out that the acquiring body has not preferred the appeal in rest of the LARs decided by the Reference Court and accepted the market price determined by Reference Court. He therefore, urged to list this appeal forthwith after registration.

5. On going through the application for condonation of delay, it is noticed that there is delay of 2286 days in preferring the first appeal at the hands of the acquiring body. True it is that the delay caused in preferring the appeal is inordinate. However, in view of the citation in case of **Ningappa Thotappa Angadi (Dead) through L.Rs. Vs. The Special Land Acquisition Officer and Ors.** reported in **2020(1) SCJ 749**, a different yardstick needs to be applied in matters of appeal arising out of land acquisition matters. It is held by the Hon'ble Supreme Court that the rights of the appellant 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 acquisition, the approach of the Court has to be pragmatic and not pedantic.

6. Having regard to the guidelines laid down by the Hon'ble Supreme Court in case of **Ningappa Thotappa Angadi (Dead) through L.Rs. Vs. The Special Land Acquisition Officer and Ors.** (supra), it is necessary to allow this application in the interest of justice and in order to decide appeal on its own merits.

### ORDER

(i) The application is hereby allowed in terms of prayer clause (B).

- (ii) The Registry to make scrutiny of the appeal as per the procedure, and thereafter, it be numbered and placed before the Court for admission.
- (iii) The Civil Application is disposed of.
- (iv) The Appeal be listed on 07.03.2022. It is made clear that this appeal would be decided at admission stage.

**( SHRIKANT D. KULKARNI, J.)**

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