

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

918 CIVIL APPLICATION NO.5992 OF 2020
IN FAST/5813/2020

DAULAT BHAURAO SURWASE (DIED) THR LRS SAVITRIBAI AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ORS

Ms L.R. Thakur, Advocate h/f Mr D.M. Kakade, Advocate for applicants
Mr P.M. Kulkarni, A.G.P. for respondents no.1 and 2
Mr S.G. Bhalerao, Advocate for respondent no.3

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 11th March, 2022

PER COURT :

1. It is an application for condonation of delay moved by the applicants.
2. Heard Ms L.R. Thakur holding for Mr D.M. Kakade, learned Advocate for applicants, Mr P.M. Kulkarni, learned A.G.P. for respondents no.1 and 2. Mr S.G. Bhalerao learned Advocate for respondent no.3 remained absent when the matter is called out.
3. Mr P.M. Kulkarni, learned A.G.P. opposed to condone the delay. He submitted that no sufficient reasons are assigned by the applicants for condonation of delay. He, therefore, urged to reject the application.
4. Ms Thakur, learned Advocate for the applicants submits that the applicants are poor farmers. They could not arrange for the funds to prefer the appeal within time which ultimately resulted in delay. The delay was not intentional. It is a case of compulsory land acquisition and different approach needs to be taken while deciding the application for condonation of delay. She, therefore, urged to condone the delay.
5. There is delay of 676 days in preferring the appeal. It is a case of compulsory land acquisition of a farmer. A different yardstick needs to be applied while deciding the application for condonation of delay arising out of land acquisition

matters. Even though there is inordinate delay, the delay needs to be condoned in view of guidelines laid down by the Honourable Supreme Court in case of **Dhiraj Singh (D) Tr. Vs. Haryana State**, reported in **MANU/SC/0778/2014**. It is further laid down by the Honourable Supreme Court that in the matter of land acquisition, where land of farmers is acquired, a liberal approach is to be taken. These persons should not be deprived of the reasonable compensation for their lands. Their statutory right of appeal cannot be thrown away at the threshold on the technicality of limitation. It is not proper to take hyper technical view.

5. In view of guidelines laid down by the Honourable Supreme Court in case of **Dhiraj Singh (D) Tr. Vs. Haryana State** (supra), the application needs to be allowed. However, the applicants need to waive the statutory benefits and interest for the delayed period and they have to furnish undertaking to that effect.

ORDER

- (i) The Civil Application is hereby allowed in terms of prayer clause (B).
- (ii) The applicants/claimants shall furnish undertaking with the Registrar (Judicial) of this Court stating therein that they would not claim statutory benefits and interest for the delayed period.
- (iii) After furnishing such undertaking by the applicants, Registry to make scrutiny of the appeal and thereafter it be numbered and placed before the Court for admission.
- (iv) The Civil Application is accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)