

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

906 CIVIL APPLICATION NO.6021 OF 2020
IN FAST/5096/2020

DODHU WAMAN MAHAJAN

VERSUS

SPECIAL LAND ACQUISITION OFFICER - 1
COLLECTOR OFFICE, JALGAON AND ANR

...

Advocate for Applicant : Mr S.S. Mahajan
AGP for Respondent No. 1 -State : Mr S.G. Sangle
Advocate for Respondent No. 2 : Ms Kashma Vijay Sharma

AND

907 CIVIL APPLICATION NO.2713 OF 2021
IN FAST/7392/2020

TRYAMBAK MAHADEO BHAMRE (DIED)
THR LRS PRABHAKAR TRYAMBAK BHAMRE
AND ORS

VERSUS

SPECIAL LAND ACQUISITION OFFICER - 1
COLLECTOR OFFICE, JALGAON AND ANR

Advocate for Applicant : Mr S.S. Mahajan
AGP for Respondent No. 1 -State : Mr A.B. Chate
Advocate for Respondent No. 2 : Ms Kashma Vijay Sharma

WITH

CIVIL APPLICATION NO. 2714 OF 2021
IN FAST/7395/2020

SUMANBAI VINAYAK SALI (DIED)
THR LRS VINAYAK AND ORS.

VERSUS

SPECIAL LAND ACQUISITION OFFICER - 1
COLLECTOR OFFICE, JALGAON AND ANR

Advocate for Applicant : Mr S.S. Mahajan
AGP for Respondent No. 1 -State : Mr A.B. Chate
Advocate for Respondent No. 2 : Ms Kashma Vijay Sharma

WITH
CIVIL APPLICATION NO. 2715 OF 2021
IN FAST/7400/2020

JAGDISH SHRIRAM PATIL

VERSUS

SPECIAL LAND ACQUISITION OFFICER - 1
COLLECTOR OFFICE, JALGAON AND ANR

Advocate for Applicant : Mr S.S. Mahajan
AGP for Respondent No. 1 -State : Mr A.B. Chate
Advocate for Respondent No. 2 : Ms Kashma Vijay Sharma

AND
909 CIVIL APPLICATION NO.9520 OF 2021
IN FAST/7290/2020

SHARAD TRYAMBAK BHAMRE

VERSUS

SPECIAL LAND ACQUISITION OFFICER,
1 AND ANR

Advocate for Applicant : Mr S.S. Mahajan
AGP for Respondent No. 1 -State : Mr A.B. Chate
Advocate for Respondent No. 2 : Ms Kashma Vijay Sharma

CORAM : SHRIKANT D. KULKARNI, J.
DATE : 4th March, 2022

PER COURT :

1. These are the applications for condonation of delay moved by the respective claimants by taking aid of section 5 of the Limitation Act, 1963.
2. Heard Mr Mahajan, learned counsel for the applicants in respective applications. He points out that the applicants/claimants are poor farmers. They could not arrange for the funds to prefer an appeal within time.

3. Though there is delay of large volume, it needs to be condoned by looking to the fact that in case of compulsory land acquisition and enhancement thereof.

4. He further points out that the applicants/claimants have assigned sufficient reasons in the applications for condonation of delay.

5. The learned AGPs in respective applications for the State strongly opposed to allow these applications. They submit that no sufficient reasons are assigned by the respective claimants.

6. Ms Kashma Sharma, learned counsel for respondent No. 2/acquiring body also strongly opposed to allow these applications for condonation of delay. She submits that the claimants have not at all assigned sufficient reasons for condonation of delay. The applications are without merit and liable to be dismissed.

7. On going through the proceedings, it is noticed that the delay ranges in between 2353 days to 2423 days and practically more than five years.

8. Mr Mahajan, learned counsel for the respective claimants seeks leave to place on record copy of order passed by this Court in Civil Application No. 4609/2020 in First Appeal St. No. 7425/2020 and he urged that the same view may be taken and delay may be condoned. He further submits that the claimants are ready to waive interest in respect of the delayed period.

9. It is true that the delay caused by the respective claimants in preferring the appeals is of large volume. At the same time, it cannot be overlooked that these appeals are arising out of compulsory land acquisition matters for enhancement. A different yardstick needs to be applied in the

appeals while considering the condonation of delay which relates to the enhancement of compensation. A useful reference can be made in case of ***Dhiraj Singh Vs. Haryana State reported in MANU/SC/0778/2014*** wherein, the Hon'ble Supreme Court has held that in the matter of land acquisition where land of the farmers is acquired, a different approach has 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.

10. Having regard to the guidelines laid down by the Hon'ble Supreme Court in case of **Dhiraj Singh** (supra), it is necessary to allow these applications for condonation of delay. However, the respective claimants/applicants need to furnish undertaking with the Registrar (Judicial) of this Court stating that they would not claim statutory benefits and interest in respect of delayed period.

ORDER

- (i) These applications for condonation of delay are hereby allowed on condition that the applicants/claimants shall furnish their undertaking to the Registrar (Judicial) of this Court stating that they would not claim statutory benefits and interest in respect of delayed period.
- (ii) After furnishing such undertaking, the Registry to make scrutiny of the appeals as per procedure and thereafter, those be numbered and placed before the Court for admission.
- (iii) The civil applications are accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)