

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

924 CIVIL APPLICATION NO.3336 OF 2020
IN FAST/8165/2020

APPA SITARAM MANWATKAR (DIED) THR LRS SUDHAKAR APPARAO
MANWATKAR
VERSUS
THE STATE OF MAHARASHTRA AND ORS

Mr D.M. Kakade, Advocate for applicant
Mr S.P. Deshmukh, A.G.P. for respondents no.1 and 2
Mr Parikshit Mantri, Advocate h/f Mr S.G. Bhalerao, Advocate for respondent no.3

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 1st March, 2022

PER COURT :

1. It is an application for condonation of delay moved by the original claimant.
2. Heard Mr D.M. Kakade, learned Advocate for applicant, Mr Parikshit Mantri holding for Mr S.G. Bhalerao, learned Advocate for respondent no.3 and Mr S.P. Deshmukh, learned A.G.P. for respondents no.1 and 2.
3. Mr Mantri holding for Mr Bhalerao, learned Advocate for respondent no.3 and Mr Deshmukh, learned A.G.P. for respondents no.1 and 2 opposed to condone the delay.
4. Mr D.M. Kakade, learned Advocate for the applicant relied upon the citation in case of **Dhiraj Singh (D) Tr. Vs. Haryana State**, reported in **MANU/SC/0778/2014** and urged to condone the delay.
5. Having regard to the ratio laid down in case of **Dhiraj Singh (D) Tr. Vs. Haryana State** (supra), though there is huge delay in filing the appeal, it needs to

be condoned, as it is a case of payment of compensation arising out of compulsory land acquisition. In the matter of land acquisition, a different yardstick needs to be applied while condoning the delay. Equities can be balanced by denying the appellant's interest for the period for which he did not approach the Court. However, the substantive rights of the appellant should not be allowed to be defeated on technical grounds by taking hyper technical view of self-imposed limitations.

6. Having regard to the guidelines laid down by the Honourable Supreme Court in case of **Dhiraj Singh (D) Tr. Vs. Haryana State** (supra), it is necessary to allow this application.

ORDER

- (i) The Civil Application is allowed in terms of prayer clause (A).
- (ii) The applicant/original claimant shall furnish undertaking with the Registrar (Judicial) of this Court stating that he would not claim the statutory benefits and interest in respect of delayed period of 4062 days, which is condoned today.
- (iii) After furnishing such undertaking, the Registry to make scrutiny of the appeal as per procedure and thereafter, it be numbered and placed before the Court for admission.
- (iv) The Civil Application is disposed of accordingly.

(SHRIKANT D. KULKARNI, J.)