

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 9559 OF 2017 IN
FIRST APPEAL ST. NO. 11753 OF 2017

Mantaram Jagan Dambhe & others Applicants

Versus

The State of Maharashtra & others Respondents

Mr. D. M. Pingale, advocate for the applicants.
Mr. S. P. Sonpawale, AGP for respondents No. 1 and 3.

WITH
CIVIL APPLICATION NO. 218 OF 2018 IN
FIRST APPEAL ST. NO. 37578 OF 2017

Mantaram Jagannath Dambhe & another Applicants

Versus

The State of Maharashtra & others Respondents

Mr. D. M. Pingale, advocate for the applicants.
Mr. S. P. Sonpawale, AGP for respondents No. 1 and 2.

WITH
CIVIL APPLICATION NO. 258 OF 2018 IN
FIRST APPEAL ST. NO. 37575 OF 2017

Mantaram Jagannath Dambhe & others Applicants

Versus

The State of Maharashtra & others Respondents

Mr. D. M. Pingale, advocate for the applicants.
Mr. S. P. Sonpawale, AGP for respondents No. 1 and 3.

CORAM : R. M. JOSHI, J.

DATE : 9th DECEMBER, 2022.

PER COURT :

1. These are the applications for condonation of delay of 1650, 1235 and 1678 days respectively, in filing first appeals.
2. Heard learned advocate for the applicants and learned AGP for the State. Acquiring body is duly served with notice. However, it failed to cause appearance. This shows that the said respondent is not serious for opposing the applications.
3. It is the contention of claimants/applicants that due to financial difficulties, the appeals for enhancement of compensation could not be filed in time. The other difficulties faced by them which were the cause for non-filing of present appeals in time are elaborated in the applications.
4. Learned advocate for the applicants submitted that in facts of the case and in the interest of justice, delay caused in filing the appeals be condoned. The said contention is strongly opposed by learned AGP for the State.

5. It is settled position of law by the orders passed by the Hon'ble Apex Court that in case of land acquisition cases, the Court cannot take pedantic approach for condonation of delay and substantive rights of land owners cannot be allowed to be defeated on technical grounds. In this regard reference can be made to the judgments in the matter of Dhiraj Singh vs. State of Haryana and others reported in (2014) 14 SCC 127 and Imratlal and others vs. Land Acquisition, Collector, and others reported in (2014) 14 SCC 133.

6. In a case where there is compulsory acquisition of the land, the claimant is entitled to receive adequate compensation. If he is aggrieved by the order passed by any authority, he has a right to prefer appeal against such order and to seek enhancement in accordance with law. This right cannot be denied on technicalities. The applicants herein have provided reason for not preferring appeal in time, which in absence of any malafides deserves to be accepted. However, at the same time, appellants cannot be allowed to take advantage of the delay and respondents cannot be burdened with liability to pay interest on enhanced amount for the said period. In the circumstances, equity can be balanced by denying any amount of

interest to the claimants on enhanced compensation, if any, till the date of filing of appeal. Hence the order :-

ORDER

- i) Applications stand allowed.
- ii) Delay caused in preferring appeals stands condoned.
- iii) Appeals be registered.
- iv) Applicants are not entitled to receive any amount of interest on enhanced compensation upto the date of filing of appeal, if they succeed in the appeal.
- v) Civil applications stand disposed of.

(R. M. JOSHI)
Judge