

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

909 CIVIL APPLICATION NO.2094 OF 2021 IN FAST/12183/2020

**MADHAV GANGADHAR DESHMUKH
VERSUS
THE STATE OF MAHARASHTRA THR COLLECTOR, NANDED
AND OTHERS**

....

Mr. G.N. Chincholkar, Advocate for the Applicant
Mr. S.G. Sangle, AGP for Respondent Nos. 1 and 2 / State

AND

910 CIVIL APPLICATION NO.2123 OF 2021 IN FAST/12158/2020

**INDUBAI GANGADHAR DESHMUKH
VERSUS
THE STATE OF MAHARASHTRA THR COLLECTOR, NANDED
AND OTHERS**

....

Mr. G.N. Choncholkar, Advocate for the Applicant
Mr. A.B. Chate, AGP for Respondent Nos. 1 and 2 / State

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 02nd MARCH, 2022

PER COURT:-

1. These are the applications for condonation of delay moved by the applicants / original claimants.
2. Heard Mr. G.N. Chincholkar, learned counsel for the applicants / original claimants, and Mr. Sangle and Mr. Chate, learned AGPs in respective application for respondent nos. 1 and

2 / State. Respondent no. 3 / acquiring body though duly served, remained absent when matter is called out.

3. Mr. Sangle and Mr. Chate, learned AGPs for respondent nos. 1 and 2 / State strongly opposed to condone the delay. They submitted that that no sufficient reasons are assigned by the applicants / claimants for condonation of delay, They urged to dismiss the applications.

4. Mr. Chincholkar, learned counsel for the applicants / claimants submitted that the applicants are poor farmers and they could not arrange for the funds to prefer the appeals within time. The delay was not intentional. The delay is hardly one year and some days. In view of decision of the Hon'ble Supreme Court in case of *Dhiraj Singh Vs. The State of Haryana* reported in (2014) 14 SCC, 127, the delay needs to be condoned by taking pragmatic view.

5. I have considered the submissions of learned counsel appearing for the applicants / claimants and the learned AGP for the State. It is a case of compulsory land acquisition. The applicants / claimants intend to prefer an appeal for enhancement of compensation. In civil application no. 2094 of 2021, there is

delay of 389 days in preferring the appeal and in civil application no. 2123 of 2021, the delay is of 388 days in preferring the appeal. In case of compulsory land acquisition and the appeals arising thereof for enhancement of compensation at the hands of claimants, different yardstick needs to be applied for condonation of delay. In case of *Dhiraj Singh Vs. The State of Haryana* (supra), it is observed by the Hon'ble Supreme Court that the approach of the Court in dealing with the delay condonation application arising out of land acquisition matters must be pragmatic and not pedantic. Substantive rights of the appellant and land owners cannot be allowed to be defeated on technical grounds by taking hyper technical view of self imposed limitation. The same view also finds place in case of *K. Subbarayudu vs. Special Deputy Collector 2017 (12) SCC 840*.

6. Having regard to the guidelines laid down by the Hon'ble Supreme Court in above referred citations and looking to the facts of the case, it is necessary to condone the delay. It would not be just and proper to throw away the appeal at the threshold by taking hyper technical view. At the same time, it is necessary that the applicants / claimants shall not be entitled to get statutory benefits and the interest in respect of delayed period by way of

equity and they have to furnish necessary undertaking to that effect with the Registrar (Judicial) of this Court.

ORDER

(i) The applications for condonation of delay is hereby allowed in terms of prayer clause (B).

(ii) The applicants / original claimants shall furnish undertaking with the Registrar (Judicial) of this Court stating that they shall not claim the statutory benefits and interest in respect of delayed period.

(iii) After furnishing the undertaking by the applicants / original claimants, the Registry to make scrutiny of the appeals as per procedure and those be numbered and place before the Court for admission.

(iii) The civil applications are accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

S.P. Rane