

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

CIVIL APPLICATION NO.8636 OF 2021 IN FAST/15226/2020

**KUNDLIK TUKARAM LAHAMAGE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Mr. D.M. Pingle, Advocate for the Applicant
Mr. P.M. Kulkarni, AGP for Respondent Nos.1 and 2
Ms. V.P. Narwade, Advocate for Respondent No.3

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CORAM : SHRIKANT D. KULKARNI, J.

DATE : 15th FEBRUARY, 2022

PER COURT:-

1. It is an application for condonation of delay moved by the applicant / original claimant.
2. Heard Mr. D.M. Pingle, learned counsel for the applicant / original claimant, Mr. Chate, learned counsel for respondent nos. 1 and 2 and Ms. V.P. Narwade, learned counsel appearing for respondent no.3 / acquiring body.
3. Mr. Pingle, learned counsel for the applicant submits that the applicant is a poor farmer. He could not arrange for the funds to prefer an appeal within time. The delay was not intentional.

The delay needs to be condoned as it is a case of compulsory land acquisition. The applicant is ready to waive statutory benefits and interest in respect of delayed period.

4. Mr. Chate, learned AGP for respondent nos. 1 and 2 and Ms. Narwade, learned counsel for respondent no.3 / acquiring body opposed to condone the delay. They submitted that no sufficient reasons are assigned by the applicant for condonation of delay. There is a huge delay in preferring the appeal. The application for condonation of delay may be dismissed.

5. It is revealed that there is delay of 1811 days in preferring the appeal, which comes to approximately five years. It is a case of compulsory land acquisition. The applicant could not arrange for the funds, which ultimately resulted in delay. In cases of first appeals arising out of compulsory land acquisition matters for enhancement preferred by the claimants, different yardstick needs to be applied for condonation of delay. By considering this aspect and the reasons assigned by the applicant in para no.6 of the application, the delay needs to be condoned on condition that the applicant shall not claim statutory benefits and interest for the delayed period.

ORDER

- (i) The application for condonation of delay is hereby allowed in terms of prayer clause (A) on condition that the applicant shall not claim statutory benefits and interest for the delayed period.
- (ii) The applicants shall furnish undertaking to that effect with the Registrar (Judicial) of this Court.
- (iii) Registry to make scrutiny of the appeal as per procedure and it be numbered after furnishing the undertaking by the claimant and then place before the Court for admission.
- (iv) The civil application is accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

S.P. Rane