

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

938 CIVIL APPLICATION NO.1673 OF 2020  
IN FAST/20020/2019

DATTU MAHADU THITTE  
VERSUS  
THE STATE OF MAHARASHTRA AND ANR

...

Advocate for Applicant : Mr. Sakolkar Virendra T.

AGP for Respondents State:

Advocate for Respondent No.2 : Mr. R. K. Ingole

**CORAM : Y. G. KHOBRADE, J.**  
**DATE : 18TH NOVEMBER, 2022**

**ORDER:**

1. Heard learned counsel for the respective parties.
2. The applicant has filed present application and prayed for condonation of delay of 4187 days (approximately eleven and half years) caused in lodging appeal mainly on ground that though the Acquiring Body acquired his land by private negotiation but no compensation was paid in time and due to poor financial condition he could not lodge the appeal within stipulated period and therefore the said delay is caused while lodging the first appeal.
3. Learned counsel appearing for the non applicant No.2 Acquiring Body submitted that the applicant has not explained the delay properly and merely the ground of poor financial condition of the applicant is not sound cannot be a sole ground to condone the delay. Hence prayed for rejection of the same.
4. It is trite well settled principle of law that the litigant should not be suffered for receiving substantial justice on technical ground and

the court should be liberal while condoning the delay, if proper and substantial explanation is given. The applicant has assigned reasons that, his land is acquired by private negotiation, however, he has not been paid compensation at the earliest so also due to poor financial condition, he could not arrange for court fees and therefore delay is caused. The delay appears to be bonafide and substantial. At the same time, for the inaction on the part of applicant, the acquiring body cannot be suffered. Therefore, to my mind, the applicant shall not be entitled for interest and statutory benefits for the delayed period. Accordingly, I pass the following order:

#### O R D E R

- i. Civil application is hereby allowed
- ii. The delay of 4187 days caused in filing appeal is hereby condoned. The applicants shall not be entitled for interest and statutory benefits for the delayed period.
- iii. Registry of this office is directed to register the appeal and place before this Court for further action.
- iv. Copy of the order be placed in appeal so that at the time of final argument, it can be referred.

**(Y. G. KHOBRADE, J.)**

JPChavan