

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

925 CIVIL APPLICATION NO.1574 OF 2018
IN FAST/27531/2017

ANASUYABAI UTTAMRAO PATIL (DECEASED) THR LRS
RAOSAHEBAND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ORS

Advocate for Applicant : Mr. Yenegure Apparao
AGP for Respondents State: Mr. S. S. Dande

CORAM : Y. G. KHOBRAGADE, J.
DATE : 15TH NOVEMBER, 2022

ORDER:

1. Heard Mr. Yenegure, the learned Advocate for the applicants and Mr. S.S. Dande, learned AGP for the State.
2. Learned counsel for the applicants vehemently canvassed that, on 30.08.2011, the trial court passed impugned judgment and award in Land Acquisition Reference No. 200/2005 and other connected matters, however, due to poor financial condition, some time is consumed in collecting necessary documents and to arrange required amount for payment of court fees and therefore delay of 2086 days caused in filing the appeal, which is bonafide and substantial. Hence, prayed for condonation of the same.

3. The learned AGP has not disputed about the fact of passing of the judgment and award on 30.08.2011, however, he submitted that the applicants have not explained the delay properly and hence, prayed for rejection of the application.

4. It is 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. In the case in hand, it appears that on 30.08.2011, the reference court passed impugned judgment and award under Section 18 of the Land Acquisition Act. However, due to their poor financial condition and as some time is consumed in collecting documents, delay of 2086 days caused. Therefore, in the interest of justice it would be just and proper to condone the delay caused in filing the appeal.

5. Since the applicants claim for enhancement of compensation and there is delay of 2086 days caused in filing the appeal, so also, though the applicants filed present civil applications along-with first appeal in the year 2017, but again for five years, the applicants did not bother to circulate the matter. Hence to my mind the applicants will not be entitled for the interest and statutory benefits for the delayed period

so also for the period which has been consumed in circulating the matter till date. Accordingly, I proceed to pass the following order:-

O R D E R

- i. Civil application is hereby allowed
 - ii. The delay of 2086 days caused in filing appeal is hereby condoned. The applicants will not be entitled for interest and statutory benefits for the delayed period as well as till date of this order.
 - iii. Registry of this office is directed to register the appeal and place before this Court for further action.
6. Copy of the order be placed in appeal so that at the time of final argument, it can be referred.

(Y. G. KHOBRAGADE, J.)

JPChavan