

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

30 CIVIL APPLICATION NO.10793 OF 2021 IN FAST/25701/2021

SOPAN BUVAJI GADVE
VERSUS
THE STATE OF MAHARASHTRA THR COLLECTOR, AURANGABAD
AND OTHERS

...
Advocate for Applicant : Mr. Kailas B. Jadhav
AGP for Respondents No.1 and 2 : Mr. P. M. Kulkarni
Advocate for Respondent No.3 : Mr. Anil M. Gaikwad
...

32 CIVIL APPLICATION NO.10795 OF 2021 IN FAST/26691/2019

SUBABAI HESHWANTA SATE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Applicant : Mr. Kailas B. Jadhav
AGP for Respondents No.1 and 2 : Mr. N. T. Bhagat
Advocate for Respondent No.3 : Mr. Prashant S. Shinde
...

34 CIVIL APPLICATION NO.10797 OF 2021 IN FAST/8886/2020

SAKHARAM SHRIRANG RAUT
VERSUS
THE STATE OF MAHARASHTRA THR COLLECTOR, AURANGABAD
AND OTHERS

...
Advocate for Applicant : Mr. Kailas B. Jadhav
AGP for Respondents No.1 and 2 : Mr. D. S. Jape
Advocate for Respondent No.3 : Mr. S. D. Dhongade
...

35 CIVIL APPLICATION NO.10798 OF 2021 IN FAST/25842/2021

ASARAM GANESH SATHE
VERSUS
THE STATE OF MAHARASHTRA THR COLLECTOR, AURANGABAD
AND OTHERS

...
Advocate for Applicant : Mr. Kailas B. Jadhav
AGP for Respondents No.1 and 2 : Mr. A. B. Chate
Respondent No.3 served.
...

36 CIVIL APPLICATION NO.10799 OF 2021 IN FAST/25908/2021

MAHADEO BHAGARAM AKAT
VERSUS
THE STATE OF MAHARASHTRA THR COLLECTOR, JALNA AND
OTHERS

...
Advocate for Applicant : Mr. Kailas B. Jadhav
AGP for Respondents No.1 and 2 : Mr. P. M. Kulkarni
Advocate for Respondent No.3 : Ms. Shrutika Deshpande h/f.
Mr. Anand Chawre
...

37 CIVIL APPLICATION NO.10801 OF 2021 IN FAST/25846/2021

MATHURABAI DADARAO SATHE
VERSUS
THE STATE OF MAHARASHTRA THR COLLECTOR, AURANGABAD
AND OTHERS

...
Advocate for Applicant : Mr. Kailas B. Jadhav
AGP for Respondents No.1 and 2 : Mr. A. A. Jagatkar
Advocate for Respondent No.3 : Mr. Kedar Warad h/f.
Mr. Ram B. Deshpande
...

38 CIVIL APPLICATION NO.10802 OF 2021 IN FAST/25703/2021

ASHOK ACHUTRAO GADVE
VERSUS
THE STATE OF MAHARASHTRA THR COLLECTOR, AURANGABAD
AND OTHERS

...
Advocate for Applicant : Mr. Kailas B. Jadhav
AGP for Respondents No.1 and 2 : Mr. N. T. Bhagat
Respondent no. 3 served.
...

39 CIVIL APPLICATION NO.10805 OF 2021 IN FAST/25844/2021

BABASAHEB RAMRAO SATE (DIED) THR LRS DNYANESHWAR AND
OTHERS
VERSUS

THE STATE OF MAHARASHTRA THR THE COLLECTOR,
AURANGABAD AND OTHERS

...

Advocate for Applicant : Mr. Kailas B. Jadhav
AGP for Respondents No.1 and 2 : Mr. G. O. Wattamwar
Advocate for Respondent No.3 : Mr. S. G. Bhalerao

...

40 CIVIL APPLICATION NO.10819 OF 2021 IN FAST/26466/2019

PRAKASH SOPANRAO GADVE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Applicant : Mr. Kailas B. Jadhav
AGP for Respondents No.1 and 2 : Ms. D. S. Jape
Respondent no. 3 served.

...

CORAM : S. G. MEHARE, J.

DATE : 06-06-2022

PER COURT :-

1. Heard learned counsel for the applicants-original claimants, learned AGP for respondents no.1 and 2 and learned counsel for respondent no.3 – acquiring body, respectively.

2. In CA/10798/2021, CA/10802/2021 and CA/10819/2021 notice is duly served, but none appeared for respondent no. 3 – acquiring body.

3. The applications are for the condonation of 3133, 1266, 2566, 3097, 4596, 3137, 3169, 1581, 1408 days delay caused in preferring first appeals against the impugned Judgment and Award passed by the learned Reference Court in the land acquisition proceedings.

4. Learned counsel for the applicants submits that the reasons mentioned in the applications are sufficient to condone the delay. The delay caused in filing the appeals is not deliberate and intentional. However, the reasons for causing the delay were beyond the control of the applicants.

5. The learned AGP for respondents no.1 and 2 would submit that the reasons are insufficient to condone the delay, and the day-to-day delay has not been properly explained.

6. Learned counsel for respondent no. 3 – The acquiring body submits that there is a huge delay, and the applications may be dismissed as the same has not been properly explained.

7. Learned counsel for the applicants submits that this Court has condoned the delay in other similar applications arising from the same land acquisition proceedings and Award. He would submit that a liberal may be taken to condone the delay and the

matters may be decided on merits.

7. He relied in *Dhiraj Singh (dead) through Legal Representatives and others Versus State of Haryana and others, [(2014) 14 Supreme Court Cases 127]* and would submit that in the said case also delay was caused due to weak financial condition of the appellants-claimants, whose lands were acquired. He submits that the applicants are identically situated that the cases in which the delay has already been condoned by this Court.

8. In paragraph No. 15 of the said Judgment, it has been observed that "*Equities can be balanced by denying the appellants' interest for the period for which they did not approach the Court. The substantive rights of the appellants should not be allowed to be defeated on technical grounds by compensation for land acquisition, wherein the approach of the Court has to be pragmatic and not pedantic.*"

9. The guidelines have been issued by the Honourable Apex Court in *Dhiraj Singh (dead) through Legal Representatives (supra)* that though there is a long delay in preferring appeal, however, it is a case of payment of compensation to the appellant-claimant, who was the landowner and which land was taken away by compulsory acquisition. In view of the guidelines issued and

the ratio laid down in *Dhiraj Singh's case (supra)*, this Court is of the view that no prejudice would be caused to the other side if the delay is condoned. This Court has already condoned the delay in similarly situated cases. Hence, the order -

ORDER

- i. Civil applications are allowed in terms of prayer clause 'B'.
- ii. The applicants-original claimants shall furnish an undertaking with the Registrar (Judicial) of this Court stating that the applicants-appellants would not claim the statutory benefits and interest in respect of the delayed period in respective cases.
- iii. The Registry to register the appeals according to law and post the same at the stage of admission.
- iv. Civil Applications are disposed of in the above terms.

(S. G. MEHARE)
JUDGE

rrd