

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

940 CIVIL APPLICATION NO.13157 OF 2021
IN FIRST APPEAL STAMP NO.31261 OF 2021

...
VILAS S/O.MADHAVRAO DALVE (PATIL) DIED THROUGH
L.Rs.VAISHALI & OTHERS
VERSUS
THE STATE OF MAHARASHTRA & OTHERS

...
Advocate for the applicants : Mr.A.V.Sakolkar
h/f.Mr.V.G.Sakolkar
AGP for Respondent-State : Mrs.D.S.Jape
Advocate for Respondent no.3 : Mr.M.P.Kale h/f.
Mr.S.D.Kaldate

...
CORAM : S.G.DIGE, J.
DATE : 13.07.2022

P.C. :

1] Heard the learned counsel for the applicants
and the respondents.

2] The learned counsel for the applicants submits
that the learned Civil Judge Senior Division, Ahmedpur,
District Latur in Land Acquisition No. 84 of 2011 passed the
judgment and award by an order dated 28th September,
2012 and awarded compensation in favour of the
applicants. Respondent no.3 has deposited the said amount

in the year 2021. After receiving the amount, the applicants have preferred this appeal for enhancement. The applicants are the poor agriculturists; they did not have source of income to file an appeal. After receiving the compensation amount, the applicants have filed this Appeal and there is delay for filing the appeal, which be condoned. He relied on the judgment of the Hon'ble Supreme Court in the case of **K. Subbarayudu & others Vs. Special Deputy Collector [Land Acquisition]** reported in **[2017] 12 SCC 840**.

3] The learned counsel for respondent no.3 submits that there are no specific reasons mentioned for condonation of delay. There is inordinate delay for filing the appeal, hence, requested to dismiss the application.

4] I have heard all the learned counsel. The learned Reference Court has passed the order in the year 2012, directing respondent no.3 to give compensation to the applicants. Respondent no.3 has deposited the amount before the learned Reference Court in the year 2021 and after withdrawal of that amount, the applicants have

preferred an appeal against the order of Reference Court for enhancement. There is inordinate delay of more than 3000 days for filing this appeal. The Hon'ble Apex Court in the case of **K. Subbarayudu & others Vs. Special Deputy Collector [Land Acquisition]** reported in **[2017] 12 SCC 840** has observed that in the case of the land acquisition matters while condoning the delay, the Court should take pragmatic view. In the present matter, the applicants are poor farmers. Their source of income was agricultural land, which is acquired by respondent no.3. They did not have sufficient funds to prefer an appeal against the order of the learned Reference Court. The order was passed by the learned Reference Court in the year 2012, after depositing the amount by respondent no.2 in Reference Court in the year 2021 i.e. more than 9 years, the applicants have preferred the appeal. Hence, considering the ratio laid down by the Hon'ble Apex Court, I proceed to pass the following order :-

ORDER

i] The Civil Application is allowed. The delay for filing First Appeal is condoned.

ii] The applicants shall not claim interest and statutory benefits for delayed period and shall file undertaking in that regard.

iii] Appeal be registered subject to removal of office objections, if any.

iv] Civil Application is disposed of accordingly.

**[S.G.DIGE]
JUDGE**

DDC