

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

917 CIVIL APPLICATION NO.9537 OF 2021
IN FAST/30981/2019

BABASAHEB SITARAM SURWASE

VERSUS

THE STATE OF MAHARASHTRA AND ORS

...

Advocate for Applicant : Mr D.M. Kakade
AGP for Respondent Nos. 1 and 2 : Mr S.G. Sangle
Advocate for Respondent No. 3 : Mr B.R. Surwase

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 23rd March, 2022

PER COURT :

1. It is an application for condonation of delay moved by the applicant/original claimant.
2. Heard Mr D.M. Kakade, learned counsel for the applicant/original claimant, Mr S.G. Sangle, learned AGP for Respondent Nos. 1 and 2 and Mr B.R. Surwase, learned counsel for Respondent No. 3/acquiring body.
3. There seems to be delay of 1116 days in preferring the appeal at the hands of the original claimant.
4. Mr S.G. Sangle, learned AGP and Mr B.R. Surwase, learned counsel for respondent No. 3 strongly opposed to condone the delay. They submitted that there is a large volume of delay. No sufficient reasons are assigned for condonation of delay.
5. Mr D.M. Kakade, learned counsel for the applicant submitted that the applicant is a poor farmer. He could not arrange for the funds and prefer the appeal within time resulted in delay. There was no intentional delay on the part of the original claimant.

6. I have considered the submissions of both the sides.

7. For the reasons stated in the application for condonation of delay in para Nos. 8 to 10 and in view of the guidelines laid down by the Hon'ble Supreme Court in the case of ***Dhiraj Singh (D) Tr. Vs. Haryana State*** reported in ***MANU/SC/0778/2014***, the delay needs to be condoned. It is a case arising out of compulsory land acquisition. A different yardstick needs to be applied in cases of condonation of delay arising out of land acquisition. The statutory right of appeal cannot be thrown away at the threshold on the technicality of limitation. It is not proper to take hyper technical view.

ORDER

- (i) The civil application is hereby allowed in terms of prayer clause (A).
- (ii) The applicant/original claimant shall furnish undertaking with the Registrar (Judicial) of this Court stating therein that he would not claim statutory benefits and interest for the delayed period.
- (iii) After furnishing such undertaking by the applicant, Registry to make scrutiny of the appeal and thereafter it be numbered and placed before the Court for admission.
- (iv) The civil application is accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)

mta