

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

907 CIVIL APPLICATION NO.12507 OF 2021
IN FAST/30080/2021

SUBHASH NAMDEO ZOL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Applicant : Mr. Deepak M. Kakade.
AGP for Respondent/State: Mr. S. P. Deshmukh.
Advocate for Respondent No.3: Mr. Vinesh C. Solshe.

...

AND

908 CIVIL APPLICATION NO.13392 OF 2021
IN FAST/31760/2021

MATHURABAI W/O ABASAHEB PAWADE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Applicant : Mr. Deepak M. Kakade.
AGP for Respondent/State: Mr. P. M. Kulkarni.

...

AND

909 CIVIL APPLICATION NO.13394 OF 2021
IN FAST/31758/2021

MATHURABAI W/O ABASAHEB PAWADE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Applicant : Mr. Deepak M. Kakade.
AGP for Respondent/State: Mr. N. T. Bhagat.

...

AND

911 CIVIL APPLICATION NO.280 OF 2022
IN FAST/32463/2021

PRABHAKAR AGAJI KAVALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Applicant : Mr. Deepak M. Kakade.

AGP for Respondent/State: Mr. A. B. Chate.

Advocate for Respondent No.3: Mr. C. V. Bodkhe, h/f Mr. R. M. Gaikwad.

...

AND

912 CIVIL APPLICATION NO.283 OF 2022
IN FAST/32259/2021

DAMODHAR NAMDEV HATAGLE (DIED) THR LRS
GAYABAI AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Applicants : Mr. Deepak M. Kakade.

AGP for Respondent/State: Mr. S. P. Deshmukh.

Advocate for Respondent No.3: Mr. C. V. Bodkhe, h/f Mr. R. M. Gaikwad.

...

AND

913 CIVIL APPLICATION NO.285 OF 2022
IN FAST/32266/2021

DAGDU SHANKARRAO LAHANE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Applicant : Mr. Deepak M. Kakade.

AGP for Respondent/State: Mr. P. M. Kulkarni.

Advocate for Respondent No.3: Mr. C. V. Bodkhe, h/f Mr. R. M. Gaikwad.

...

AND

914 CIVIL APPLICATION NO.1956 OF 2022
IN FAST/2472/2022

RAOSAHEB ASHRAJI KAWALE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Applicant : Mr. Deepak M. Kakade.

AGP for Respondent/State: Mr. N. T. Bhagat.

...

AND

**915 CIVIL APPLICATION NO.1957 OF 2022
IN FAST/2441/2022**

SARUBAI W/O KAIROJI GORE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Applicant : Mr. Deepak M. Kakade.
AGP for Respondent/State: Mr. S. N. Morampalle

...

AND

**916 CIVIL APPLICATION NO.2020 OF 2022
IN FAST/2482/2022**

SARUBAI W/O KAIROJI GORE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Applicant : Mr. Deepak M. Kakade.
AGP for Respondent/State: Mr. A. B. Chate.

...

AND

**918 CIVIL APPLICATION NO.2702 OF 2022
IN FAST/1261/2022**

AKHILODDIN S/O MUNIRODDIN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Applicant : Mr. Deepak M. Kakade.
AGP for Respondent/State: Mr. S. P. Deshmukh.

...

CORAM : **SHRIKANT D. KULKARNI, J.**

DATE : 26th April, 2022.

P.C.:

. These are the applications for condonation of delay moved by
the respective applicants/claimants.

2 Heard Mr. Deepak Kakade, learned counsel for the applicants/ claimants, Mr. V. C. Solshe, learned counsel for acquiring body in Civil Application No.12507 of 2021, Mr. C. V. Bodkhe, holding for Mr.R.M.Gaikwad, learned counsel for acquiring body in Civil Application Nos.280, 283 and 285 of 2022 and the respective learned AGPs for the State. None appears for the acquiring body in remaining applications.

3 Mr. Kakade, learned counsel for applicants/claimants seeks leave to place on record copy of order passed by this Court dated 23rd March, 2022 in Civil Application No.12502 of 2021 with connected applications. Leave granted. The same is taken on record and marked as 'X' for identification.

4 Mr. Kakade submits that these applications are arising out of same project and group. He further submits that in the above referred order after condoning the delay, those matters were listed before the Lok-Adalat on 25th September, 2021. Those appeals were settled before the Lok-Adalat. He submits that if delay is condoned in the present matters, these appeals would be listed before the Lok-Adalat scheduled to be held on 7th May, 2022. He, therefore, urged to condone the delay.

5 Mr. V. C. Solshe, learned counsel for acquiring body in Civil Application No.12507 of 2021, Mr. C. V. Bodkhe, holding for Mr.R.M.Gaikwad, learned counsel for acquiring body in Civil Application Nos.280, 283 and 285 of 2022 and the respective learned AGPs for the State, strongly opposed to condone the delay. They submitted that there is delay of more than 15 years. The delay is inordinate. It may cause injustice to the State and the acquiring body if the delay is condoned. They submitted that the applications may be dismissed.

6 Having considered the submissions of both the sides and the learned AGPs for the State and in view of earlier view taken by this Court in Civil Application No.12502 of 2021 with connected applications and looking to the fact that earlier group of appeals were settled before the Lok-Adalat after condoning the delay, the same treatment needs to be given. The applicants/claimants have been similarly placed. These applications are arising out of same project and group.

7 In view of guidelines laid down by the Honourable Supreme Court in the case of *Dhiraj Singh (D) Tr. Vs. Haryana State*, reported in, *MANU/SC/0778/2014*, statutory right of claimants cannot be thrown away at the threshold on the technicality of limitation. These persons

cannot be deprived of the reasonable compensation for their lands, which were compulsory acquired. It is not proper to take a hyper technical view. The claimants can be directed to waive the statutory benefits and interest for the delayed period so as to make equity. They can also be directed to pay costs, which would meet the ends of justice. Hence, the following order is passed:

ORDER

- I. The applications are hereby allowed in terms of prayer clause (A) on condition that the respective applicants/claimants shall furnish undertaking with the Registrar (Judicial) of this Court stating therein that they shall not claim statutory benefits and interest in respect of the delayed period.
- II. The respective applicants/claimants shall also pay costs of Rs.5000/- (Rupees Five Thousand Only) in each matter to the Secretary, High Court, Legal Services Sub-Committee at Aurangabad within a period of four weeks from today.
- III. The civil applications are accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]