

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

908 CIVIL APPLICATION NO.10659 OF 2018
IN FAST/19357/2018

GOVINDRAO SHAMRAO SURWANSHI

VERSUS

THE STATE OF MAHARASHTRA AND ORS

...
Advocate for Applicant : Mr U.B. Bilolikar Upendra B.
AGP for Respondent Nos. 1 and 3: Mr P.M. Kulkarni

AND

909 CIVIL APPLICATION NO.110 OF 2019
IN FAST/19340/2018

HANMANT MADHAVRAO PATIL (SURYAWANSHI)

VERSUS

THE STATE OF MAHARASHTRA AND ORS

Advocate for Applicant : Mr U.B. Bilolikar Upendra B.
AGP for Respondent Nos. 1 and 3: Mr S.G.Sangle

AND

910 CIVIL APPLICATION NO.268 OF 2019
IN FAST/32343/2018

RAMRAO SHESHERAO SURYAWANSHI

VERSUS

THE STATE OF MAHARASHTRA AND ORS

Advocate for Applicant : Mr U.B. Bilolikar Upendra B.
AGP for Respondent Nos. 1 and 3: Mr A.B. Chate

AND

911 CIVIL APPLICATION NO.372 OF 2019
IN FAST/32347/2018

BALIRAM GANPATRAO JADHAV

VERSUS

THE STATE OF MAHARASHTRA AND ORS

...

Advocate for Applicant : Mr U.B. Bilolikar Upendra B.
AGP for Respondent Nos. 1 and 3: Mr S.N. Morampalle

AND

912 CIVIL APPLICATION NO.380 OF 2019
IN FAST/32345/2018

NIVRATI MARUTI HOKARNE

VERSUS

THE STATE OF MAHARASHTRA AND ORS

Advocate for Applicant : Mr U.B. Bilolikar Upendra B.
AGP for Respondent Nos. 1 and 3: Mr P.M. Kulkarni

AND

913 CIVIL APPLICATION NO.8287 OF 2019
IN FAST/19355/2018

GANPATRAO RAMCHANDRA NIRGUDE

VERSUS

THE STATE OF MAHARASHTRA AND ORS

Advocate for Applicant : Mr U.B. Bilolikar Upendra B.
AGP for Respondent Nos. 1 and 3: Mr S.G. Sangle

AND

914 CIVIL APPLICATION NO.1820 OF 2020
IN FAST/32340/2018

DIGAMBAR HARIBA SURYAWANSHI (DIED)
THR LRS SUSHILABAI AND ORS

VERSUS

THE STATE OF MAHARASHTRA AND ORS

Advocate for Applicant : Mr U.B. Bilolikar Upendra B.
AGP for Respondent Nos. 1 and 3: Mr A.B. Chate

AND

915 CIVIL APPLICATION NO.2146 OF 2020
IN FAST/31564/2018

VITHALRAO YADAVRAO PATIL

VERSUS

THE STATE OF MAHARASHTRA AND ORS

...
Advocate for Applicant : Mr U.B. Bilolikar Upendra B.
AGP for Respondent Nos. 1 and 3: Mr P.M. Kulkarni

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 16th March, 2022

PER COURT :

1. These are the applications for condonation of delay moved by the original claimants.
2. Heard Mr U.B. Bilolikar, learned counsel for the appellants/original claimants and the learned AGPs for respondent Nos. 1 and 3 in respective applications.
3. Respondent No. 2 though duly served, none present for respondent No. 2.
4. Mr Bilolikar, learned counsel for the original claimants submitted that this Court (Coram : Vinay Joshi, J.) vide order dated 14.02.2022 in Civil Application No. 3902/2020 in First Appeal No. 8246/2019 (arising out of connected matters) was pleased to condone the delay of 1223 days. He submitted that the applicants are poor farmers and their lands came to be acquired by way of compulsory acquisition. There was no intentional delay on the part of the claimants and urged to condone the delay. He seeks liberty to place on record copy of the order dated 14.02.2022 passed in Civil Application No. 3902/2020 in First Appeal No. 8246/2020. Liberty granted.
5. The copy of order dated 14.02.2022 is taken on record and marked 'X' for identification.

6. The learned AGPs in respective applications strongly opposed to condone the delay. They submitted that the applicants/claimants had not assigned sufficient reasons for condonation of delay. The delay ranges from 496 days to 1104 days which is large. The learned AGPs strongly opposed to allow these applications.

7. I have considered the submissions of both the sides. It is undisputed position that these are the matters arising out of compulsory land acquisition. The lands of the farmers came to be acquired for Lendi project. The claimants intend to prefer the appeals, but they could not prefer appeals within time due to financial difficulties which resulted in delay.

8. Mr Bilolikar, learned counsel for the applicants has relied upon the citation in case of ***Dhiraj Singh (D) Tr. Vs. Haryana State*** reported in ***MANU/SC/0778/2014*** and urged to condone the delay.

9. Having regard to the ratio laid down in case of ***Dhiraj Singh (D) Tr. Vs. Haryana State*** (supra), though there is huge delay in filing the appeal, it needs to be condoned, as it is a case of payment of compensation arising out of compulsory land acquisition. In the matter of land acquisition, a different yardstick needs to be applied while condoning the delay. Equities can be balanced by denying the appellants interest for the period for which he did not approach the Court. However, the substantive rights of the appellants should not be allowed to be defeated on technical grounds by taking hyper technical view of self-imposed limitations.

10. Having regard to the guidelines laid down by the Hon'ble Supreme Court in case of ***Dhiraj Singh (D) Tr. Vs. Haryana State*** (supra), it is necessary to allow this application.

ORDER

- (i) The Civil Applications are allowed in terms of prayer clause (B).
- (ii) The applicants/original claimants shall furnish undertaking with the Registrar (Judicial) of this Court stating that they would not claim the statutory benefits and interest in respect of delayed period, which is condoned today.
- (iii) After furnishing such undertaking, the Registry to make scrutiny of the appeals as per procedure and thereafter, it be numbered and placed before the Court for admission.
- (iv) The Civil Applications are disposed of accordingly.

(SHRIKANT D. KULKARNI, J.)

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