

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

911 CIVIL APPLICATION NO.2035 OF 2017
IN FAST/33687/2016

MURLIDHAR LAXMAN DESHMUKH AND ANR

VERSUS

THE STATE OF MAHARASHTRA AND ORS

...

Advocate for Applicants : Mr A.H. Koralkar
AGP for Respondent Nos. 1 and 2 : Mr A.B. Chate
Advocate for Respondent No. 3 : Mr S.C. Arora

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 11th JANUARY, 2022

PER COURT :

1. It is an application for condonation of delay moved by the appellants/original claimants.
- 2, Heard Mr A.H. Koralkar, learned counsel for the applicants, Mr A.B. Chate, learned AGP for Respondent Nos. 1 and 2/State and Mr S.C. Arora, learned counsel for respondent No.3/acquiring body.
3. Mr Koralkar, learned counsel for the applicants submits that in some of the appeals, the delay has been condoned and subsequently, the appeals were settled before the Lok Adalat. He seeks leave to place on record a copy of order passed in Civil Application No. 7637/2021 in First Appeal (St.) No. 19843/2021 dated 25th September, 2021. Leave granted.
4. A copy of the order is taken on record and marked 'X' for identification.

5. Mr Koralkar, learned counsel submits that the delay needs to be condoned and appeal may be listed before the Lok Adalat for amicable settlement. Mr Arora, learned counsel for Respondent No. 3 and Mr Chate, learned AGP for respondent Nos. 1 and 2 strongly opposed to condone the delay. Both of them submit that the delay caused is inordinate. No satisfactory reasons are assigned to condone the delay. As such, the application for condonation of delay needs to be rejected.

6. On going through the copy of order passed in Civil Application No. 7637/2021 in First Appeal (St.) No. 19843/2021, it is noticed that the delay has been condoned with consent of other side and subsequently, the appeal came to be amicably settled before the Lok Adalat held on 25th September, 2021.

7. It is true that there is delay of 1559 days in preferring the first appeal. However, it is a case of compulsory acquisition. The different yardstick in cases of land acquisition matters need to be applied by the Court in condonation of delay. The Courts to adopt pragmatic approach and not pedantic approach. It is an obligation on the part of the Court dealing with the applications for condonation of delay in land acquisition matters to adopt different approach and yardstick.

8. Having regard to the above legal position and for the reasons stated in the application for condonation of delay, para Nos. 3 and 4, it is necessary to condone the delay. However, the applicants/claimants shall not be entitled to get statutory benefits and interest in respect of the delayed period.

9. With this, I conclude and proceed to pass the following order :-

ORDER

- (i) The application for condonation of delay is hereby allowed in terms of prayer Clause (A) on condition that the applicants/claimants shall furnish an undertaking with the Registrar (Judicial) of this Court stating that they shall not claim statutory benefits and interest in respect of the delayed period.
- (ii) After furnishing the said undertaking by the applicants/claimants with the Registry, the appeal be registered after due scrutiny, it be numbered and placed before the Court for admission.
- (iii) The Civil Application is accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]

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