

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

934 CIVIL APPLICATION NO.60 OF 2022
IN FAST/33321/2021

HARIBHAU S/O NANA NAGARGOJE
AND ORS

VERSUS

THE STATE OF MAHARASHTRA
THR THE COLLECTOR, LATUR ANDANR

...

Advocate for Applicants : Mr N.D. Kendre
AGP for Respondent Nos.1 & 2/State : Mr S.G. Sangle

AND

935 CIVIL APPLICATION NO.61 OF 2022
IN FAST/33330/2021

VINAYAK S/O SHESHRAO NAGARGOJE

VERSUS

THE STATE OF MAHARASHTRA
THR THE COLLECTOR, LATUR AND
ANR

...

Advocate for Applicants : Mr N.D. Kendre
AGP for Respondent Nos.1 & 2/State : Mr S.G. Sangle

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 5th JANUARY, 2022

PER COURT :

1. Heard Mr N.D. Kendre, learned counsel for the respective applicants/claimants and Mr S.G. Sangle, learned AGP for respondent Nos. 1 and 2/State.
2. Mr Kendre, learned counsel for the applicants submits that the applicants are poor agriculturists. They could not arrange for the funds. The State though acquired their land long back, did not deposit the

amount of compensation. The State deposited the amount of compensation in the year 2020 in the reference court and thereafter, the applicants could get the money and now, they have preferred the appeals with prayer for condonation of delay. He submits that in the interest of justice, the delay needs to be condoned.

3. Mr Kendre, learned counsel further places his reliance in case of ***K. Subbarayaudu and others Vs. Special Deputy Collector (Land Acquisition) reported in (2017) 12 SCC 840*** and urged to condone the delay.

4. Mr Sangle, learned AGP for the respondent/State strongly opposed to condone the delay. He submits that the claimants have not assigned sound reasons for condonation of delay. The delay is inordinate. The claimants are not entitled to get any sympathy. It is not a fit case to condone the delay having regard to the facts of the case.

5. I have considered the submissions of the learned counsel for the applicants/claimants and Mr Sangle, learned AGP for the respondent/State.

6. In both the applications, there is delay of 3375 days in preferring the appeals.

7. In both the applications, the claimants are poor agriculturists. They could arrange for the funds to prefer the appeal within time. It cannot be overlooked that though State has acquired the land long back, the compensation came to be deposited in the reference Court in the year

2020. The claimants thereafter could arrange the funds and now, they have preferred the appeals. Even though there seems to be inordinate delay in preferring the appeals, above said reasons cannot be overlooked. The appellants could not arrange for the funds due to poverty. They could arrange the funds when the State deposited the amount of compensation in the reference Court in the year 2020.

8. In case of ***K. Subbarayaudu and others Vs. Special Deputy Collector (Land Acquisition)*** (*supra*), it is held by the Hon'ble Supreme Court that approach of the Court in dealing with the application for condonation of delay pertaining to land acquisition matters required pragmatic approach. The High Court is required to adopt different yardstick with the land acquisition matters. The Hon'ble Supreme Court was pleased to condone the delay of 3671 days in filing the appeal by making above said observations. The facts of the said case and the facts of the case in hand are practically identical and similar.

9. Here in the case, the lands of the poor farmers came to be acquired by way of compulsory acquisitions and they have lost their bread and butter long back, but they could not get the amount of compensation. They could get the amount of compensation till the year 2020. As such, they cannot be blamed for such delay. This Court is required to take pragmatic approach while dealing with the appeals and delay condonation application arising out of the land acquisition matters. The proposed appeal on the ground of delay cannot be thrown away at threshold.

10. Having regard to the above reasons and discussion and in view of the legal position made clear by the Hon'ble Supreme Court in the case of ***K. Subbarayaudu and others Vs. Special Deputy Collector (Land Acquisition)*** (*supra*), I am convinced to condone the delay. However, the applicants/claimants shall not be entitled to get statutory benefits and interest in respect of the delayed period. They have to furnish necessary undertaking with the Registrar (Judicial) of this Court.

ORDER

- (i) Both the applications for condonation of delay are hereby allowed in terms of prayer clause (B) on condition that that they shall furnish necessary 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 such undertaking by respective applicants/claimants, the Registry to make scrutiny of the appeals as per the procedure and thereafter, those appeals be numbered and placed before the Court for admission.
- (iii) The Civil Applications are accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]

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