

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

938 CIVIL APPLICATION NO.588 OF 2018
IN FAST/37461/2017

RAJEBHAU BHAURAO NIRVAL (DIED) THR LRS. PUSHPA RAJEBHAU NIRVAL
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...
Advocate for Applicant : Mr. Kakade Deepak M.
AGP for Respondents/State : Mr. S.B. Yawalkar
...

CORAM : Y.G. KHOBRAGADE, J.
DATE : 11th November, 2022

PC.:-

Heard advocate Mr. Kakade learned counsel appearing for the applicants and Mr. Kale learned AGP for non-applicant nos.1 & 2. None appeared for non-applicant no.3.

2. By way of present application under Section 5 of the Limitation Act the applicant prayed for condonation of delay of 957 days caused while lodging appeal against award dated 06.01.2015 passed in LAR No.374/2010 by the learned 3rd Jt. C.J.S.D., Jalna. The applicant submitted that her husband original petitioner had filed reference under Section 18 of the Land Acquisition Act and prayed for enhancement of compensation for acquisition of his land. On 06.01.2015, the learned trial Court passed the judgment and

award, however, due to financial crisis her husband could not lodge the appeal for enhancement of compensation and during the pendency of present application her husband died. According to the applicant, the delay is not intentional but it is substantial and *bona fide*.

3. Per contra, the learned AGP strongly opposed the application on the ground that the applicant has not given any *bona fide* and substantial reason. Hence the delay of 957 days cannot be condoned. It is needless to mention here that, the Court should be liberal while condoning the delay and the litigant should not be deprived from receiving substantial justice on technical ground. In the case in hand, it *prima face* appears that there is a delay of 957 days while lodging the present appeal against the judgment award dated 06.01.2015 passed by the learned trial Court on count of his / her financial crisis. Therefore, to my judicious mind the ground set out by the applicant is sufficient and *bona fide* to condone the delay of 957 days. In view of above discussion, I am inclined to grant present application and proceed to pass the following order:

ORDER

- I) The application for condonation of delay is hereby allowed.
- II) The delay of 957 days in filing the appeal is hereby condoned.

The applicant shall not be entitled for the interest on the delayed period.

- III) The Registry is directed to register the first appeals and place it before the Court for further action.

[Y.G. KHOBRADE, J.]