

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 1722 OF 2020 IN
FIRST APPEAL ST. NO. 38186 OF 2018

Dnyandeo Rangnath Mali & others Applicants

Versus

The State of Maharashtra & others Respondents

WITH
CIVIL APPLICATION NO. 1723 OF 2020 IN
FIRST APPEAL ST. NO. 37876 OF 2018

Sahebrao Balwant Sabale
(Deceased through LRs) Applicants

Versus

The State of Maharashtra & others Respondents

WITH
CIVIL APPLICATION NO. 1724 OF 2020 IN
FIRST APPEAL ST. NO. 37874 OF 2018

Govardhan Apparao Sabale & others Applicants

Versus

The State of Maharashtra & others Respondents

Mr. M. K. Jadhav, Advocate holding for Mr. A. S. More, Advocate for
the applicants.

Mr. S. P. Sonpawale, AGP for the State.

CORAM : R. M. JOSHI, J.
DATE : 9th DECEMBER, 2022.

PER COURT :

1. These applications are for condonation of delay caused in filing first appeals.

2. Heard learned advocate for the applicants, learned AGP for respondents No. 1 and 2. Respondent No. 3 is duly served with notice. However, none appears on behalf of respondent No. 3. this shows that the said respondent is not serious for opposing the applications.

3. It is the contention of the claimants/applicants that due to financial difficulties, the appeals for enhancement of compensation could not be filed in time. The other difficulties faced by them which were the cause for non-filing of the present appeals in time are elaborated in the applications.

4. Learned advocate for the applicants submitted that in facts of the case and in the interest of justice, delay caused in filing the appeals be condoned. The said contention is strongly opposed by learned AGP.

5. It is settled position of law by the orders passed by the Hon'ble Apex Court that in case of land acquisition cases, the Court cannot take pedantic approach for condonation of delay and substantive rights of land owners cannot be allowed to be defeated on technical grounds. In this regard reference can be made to the judgments in the matter of Dhiraj Singh vs. State of Haryana and others reported in (2014) 14 SCC 127 and Imratlal and others vs. Land Acquisition, Collector, and others reported in (2014) 14 SCC 133.

6. In a case where there is compulsory acquisition of the land, the claimant is entitled to receive adequate compensation. If he is aggrieved by the order passed by any authority, he has a right to prefer appeal against such order and to seek enhancement in accordance with law. This right cannot be denied on technicalities. The applicants herein have provided reason for not preferring appeals in time, which in absence of any malafides deserves to be accepted. However, at the same time, appellants cannot be allowed to take advantage of the delay and respondents cannot be burdened with liability to pay interest on enhanced amount for the said period. In the circumstances, equity can be balanced by denying any amount of

interest to the claimants on enhanced compensation, if any, till the date of filing of appeal. Hence the order :-

ORDER

- i) Applications stand allowed.
- ii) Delay caused in preferring appeals stands condoned.
- iii) Appeals be registered.
- iv) Applicants are not entitled to receive any amount of interest on enhanced compensation upto the date of filing of appeal, if they succeed in the appeal.
- v) Civil applications stand disposed of.

(R. M. JOSHI)
Judge

dyb