

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

917 CIVIL APPLICATION NO.2359 OF 2020
IN FAST/38209/2019

SURESHLAL KASTURCHAND KATARIYA (DIED) THR LRS PUSHPA AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ORS

Mrs A.D. Rakh, Advocate for applicants
Mr A.B. Chate, A.G.P. for respondents no.1 and 2

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 11th March, 2022

PER COURT :

1. It is an application for condonation moved by the applicants/original claimants.
2. Heard Mrs A.D. Rakh, learned Advocate for applicants and Mr A.B. Chate, learned A.G.P. for respondents no.1 and 2. Respondent no.3 though duly served, none appeared for respondent no.3 when the matter is called out.
3. Mrs Rakh, learned Advocate for applicants submits that the reference filed by the original claimants under Section 18 of the Land Acquisition Act, 1894 came to be dismissed for want of evidence. It was not decided on merit. The original claimant died and his legal heirs were not knowing about the proceedings of reference. She, therefore, urged to condone the delay.
4. Mr A.B. Chate, learned A.G.P. for respondents no.1 and 2 submits that there is delay of 2459 days in preferring the appeal. He strongly opposed to condone the delay. He submits that no sufficient reasons are assigned by the applicants for condonation of delay. He, therefore, urged to reject the application for condonation of delay.
5. Having regard to the guidelines laid down by the Honourable Supreme Court in case of **Dhiraj Singh (D) Tr. Vs. Haryana State** reported in **MANU/SC/0778/2014**, even though there is inordinate delay in filing the appeal, it

needs to be considered when it is a case relating to payment of compensation wherein land was taken away by compulsory acquisition. It is further laid down by the Honourable Supreme Court that in the matter of land acquisition, where land of farmers is acquired, a different approach is to be taken. These persons should not be deprived of the reasonable compensation for their lands. Their statutory right of appeal cannot be thrown away at the threshold on the technicality of limitation. It is not proper to take hyper technical view.

6. In view of guidelines laid down by the Honourable Supreme Court in case of **Dhiraj Singh (D) Tr. Vs. Haryana State** the delay needs to be condoned. However, the applicants need to waive the statutory benefits and interest for the delayed period and they have to furnish undertaking to that effect.

ORDER

- (i) The Civil Application is hereby allowed in terms of prayer clause (B).
- (ii) The applicants/claimants shall furnish undertaking with the Registrar (Judicial) of this Court stating therein that they would not claim statutory benefits and interest for the delayed period.
- (iii) After furnishing such undertaking by the applicants, Registry to make scrutiny of the appeal and thereafter it be numbered and placed before the Court for admission.
- (iv) The Civil Application is accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)