

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

913 CIVIL APPLICATION NO.6022 OF 2018
IN FAST/40006/2017

SAYYAD SULTAN SAYYAD JAMAL (DEAD) THR LRS
NOORABEE AND ANR

VERSUS

THE EX. ENGINEER, LOWER DUDHNA PROJECT
DIVISION SELU NOW EX. ENGINEER IRRIGATION DIV.
JALNA AND OR

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Advocate for Applicants : Mr. Humbe Vilas M.

AGP for Respondents: Mr. S P Deshmukh

Advocate for Respondent 1 : Mr. Dande Shrirang S.

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CORAM : V.K. JADHAV, J.

Dated: April 22, 2022

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PER COURT :-

1. Heard both sides.
2. Being aggrieved by the judgment and award passed by the 3rd Jt. Civil Judge, S.D., Jalna dated 20.02.2016 in LAR No.392 of 2011 the applicants/original claimants have preferred an appeal which is delayed by a period of 566 days.
3. Learned counsel for the applicants submits that the applicants are the poor agriculturists and due to their poor financial condition, they could not file the first appeal against the judgment and award passed by

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the Reference Court within a period of limitation. There is no intentional delay in preferring the appeal, however, the applicants are prevented from sufficient cause to prefer an appeal within limitation.

4. Learned counsel Mr. Dande appearing for respondent no.1/acquiring body submits that there is inordinate delay in filing the appeal, which is not properly explained. Learned counsel submits that even after the reference court has passed the judgment and award on 20.2.2016, the appeal has been preferred after an inordinate delay without any explanation. Learned counsel submits that the applicants are not entitled for the interest of the delayed period.

5. I have also heard the learned AGP for the respondent/State. Learned AGP has also resisted the application seeking condonation of delay on the ground that delay is inordinate and there is no plausible explanation of the delay caused in preferring the appeal.

6. It appears that except the ground of poor financial condition, no other ground has been raised for condonation of delay. However, the applicants are the

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agriculturists and their lands have been acquired way back in the year 1995-1996. They got enhancement of compensation in the year 2016 as per the impugned judgment and award passed by the reference Court. However, the same is also not to the satisfaction of the applicants. However, considering the entire aspect of the case, though I am inclined to condone the delay, however, in the peculiar facts and circumstances of the case, the applicants are not entitled to claim the interest of the delayed period, in the event, if they succeed in the appeal. Hence, following order.

O R D E R

1. Civil application is allowed in terms of prayer clause 'B. However, the applicants are not entitled to claim the interest of the delayed period in the event if the applicants succeed in the appeal.
2. Civil Application accordingly disposed off.

(V.K. JADHAV, J.)

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