

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

916 CIVIL APPLICATION NO.6055 OF 2018
IN FAST/40010/2017

SAYYAD HAMIDABEE SAYYAD ANWAR
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 common judgment and award passed by the 3rd Jt. Civil Judge, S.D., Jalna dated 30.3.2016 in LAR No.390 of 2011 the applicant/original claimant has preferred an appeal, which is delayed by a period of 528 days.
3. Learned counsel for the applicant submits that the applicant is the poor agriculturist and due to his poor financial condition, he could not file the first appeal against the judgment and award passed by the

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Reference Court within the period of limitation. There is no intentional delay in preferring the appeal, however, the applicant is 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 4.2.2016, the appeal has been preferred after an inordinate delay without any explanation. Learned counsel submits that the applicant is 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 the 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 applicant is the

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agriculturist and his land has been acquired way back in the year 1995-1996. He 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 applicant. 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 applicant is not entitled to claim the interest of the delayed period, in the event, if he succeeds in the appeal. Hence, following order.

O R D E R

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

(V.K. JADHAV, J.)

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