

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

35 CIVIL APPLICATION NO.1822 OF 2020
IN FAST/39751/2018

HARISHCHANDRA SANDU SHORE

VERSUS

STATE OF MAHARASHTRA THR COLLECTOR,
AURANGABAD AND ORS

...

Advocate for Applicant : Ms Sakshi Kale h/f Mr A.B. Kale
AGP for Respondent Nos. 1 and 2/State : Mr A.B. Chate

CORAM : SHRIKANT D. KULKARNI, J.
DATE : 28th February, 2022

PER COURT :

1. It is an application for condonation of delay moved by the original claimant.
2. Heard Ms Sakshi Kale holding for Mr A.B. Kale, learned counsel for the applicant and Mr A.B. Chate, learned AGP for respondent Nos. 1 and 2/State.
3. Respondent No. 3 though duly served, remained absent when the matter is called out.
4. Ms Sakshi Kale, learned counsel submits that the applicant is a poor farmer. It is a case of compulsory land acquisition. The original claimant could not arrange for the funds to prefer an appeal within time. There is delay of 1770 days in preferring the appeal. The applicant has assigned the reason for condonation of delay in para Nos. 3 and 4. She therefore urged to condone the delay. She further placed her reliance in case of **Ningappa Thotappa Angadi**

(Dead) through L.Rs. Vs. The Special Land Acquisition Officer and Ors. reported in **2020(1) SCJ 749** in support of her submissions.

5. Mr A.B. Chate, learned AGP for respondent Nos. 1 and 2/State has opposed to condone the delay. He submits that no sufficient reasons are assigned by the applicant for condonation of delay. The application may be dismissed.

6. On perusing the record, it is noticed that there is delay of 1770 days in preferring the appeal at the hands of the original claimant whose lands came to be acquired by way of compulsory acquisition. The applicant seems to be a poor farmer and could not arrange for the funds to prefer an appeal which resulted in delay. In case of **Ningappa Thotappa Angadi (Dead) through L.Rs. Vs. The Special Land Acquisition Officer and Ors.** (supra), it is held by the Hon'ble Supreme Court that the substantive rights of the appellants should not be allowed to be defeated on technical grounds by taking hypertechnical view of self-imposed limitations. In the matter of compensation in land acquisition, the Hon'ble Supreme Court is of the view that the approach of the Court has to be pragmatic and not pedantic.

7. Having regard to the submissions of the learned counsel for the applicant and guidelines laid down by the Hon'ble Supreme Court in case **Ningappa Thotappa Angadi (Dead) through L.Rs. Vs. The Special Land Acquisition Officer and Ors.** (supra), it is necessary to allow this application for condonation of delay. However, the applicant/claimant is required to furnish undertaking with the Registrar (Judicial) of this Court stating that he would not claim statutory benefits and interest in respect of the delayed period.

ORDER

- (i) The application is hereby allowed in terms of prayer clause (B) on condition that the applicant shall furnish necessary undertaking to the satisfaction of the Registrar (Judicial) stating that he would not claim statutory benefits and interest in respect of the delayed period which is condoned today.
- (ii) After furnishing such undertaking by the applicant/claimant, the appeal be registered after due scrutiny as per procedure and thereafter, it be numbered and placed before the Court for admission.
- (iii) The Civil Application is accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)

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