

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

936 CIVIL APPLICATION NO.6747 OF 2018
IN FAST/41880/2017

DADARAO GENA SANAP (DIED) THR LRS ANUSAYA AND ORS
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicants :Mr. Jayabhar Dattatraya R.
AGP for Respondents State: Mr. S. R. Yadav Lonikar

CORAM : Y. G. KHOBRAGADE, J.
DATE : 15TH NOVEMBER, 2022

ORDER:

1. Heard learned counsel for the respective parties.
2. Learned counsel for the applicants vehemently canvassed that, on 07.04.2005, the trial court passed impugned judgment and award in LAR No. 43 of 1995, however, due to poor financial condition and illiteracy, some time is consumed in collecting necessary documents and to arrange required amount for payment of court fees and therefore delay of 4550 days caused in filing the appeal, which is bonafide and substantial. Hence, prayed for condonation of the same. The learned AGP has not disputed about the fact of passing of the judgment and award, however, he submitted that the applicant has not explained the delay properly and hence, prayed for rejection of the application.
3. It is well settled principle of law that the litigant should not be suffered for receiving substantial justice on technical ground and the court should be liberal while condoning the delay, if proper and substantial explanation is given. In the case in hand, it appears that

on 07.04.2005, the reference court passed impugned judgment and award under Section 18 of the Land Acquisition Act, however, due to poor financial condition and illiteracy, delay is caused in filing the appeal. Therefore, in the interest of justice it would be just and proper to condone the delay caused in filing the appeal.

4. Since the applicants claim for enhancement of compensation and there is delay of 4550 days caused in filing the appeal, to my mind the applicants will not be entitled for the interest and statutory benefits for the delayed period so also for the period which has been consumed in circulating the matter till date. Accordingly, I proceed to pass the following order:-

O R D E R

- i. Civil application is hereby allowed
- ii. Delay of 4550 days caused in filing appeal is hereby condoned. The applicant will not be entitled for interest and statutory benefits for the delayed period as well as till date of this order.
- iii. Registry of this office is directed to register the appeal and place before this Court for further action.
- iv. Copy of the order be placed in appeal so that at the time of final argument, it can be referred.

(Y. G. KHOBRAGADE, J.)

JPChavan