

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

**CIVIL APPLICATION NO.3709 OF 2018
IN
FIRST APPEAL STAMP NO. 42180 OF 2017**

**BHAU NAMDEV LATE DECEASED THR LR BALASAHEB AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ORS.**

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Advocate for Applicants : Mr. M. P. Tripathi h/f Mr. P. R. Kadam
AGP for Respondent Nos.1 & 2/State: Mr. S. P. Deshmukh
Advocate for Respondent No.3: Mr. B. R. Survase

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CORAM : SHRIKANT D. KULKARNI, J.

DATE : 8th MARCH, 2022

PER COURT : -

1. It is an application for condonation of delay moved by the applicants under Section 5 of the Limitation Act, 1963.
2. Heard Mr. M. P. Tripathi holding for Mr. P. R. Kadam, learned counsel for the applicants, Mr. S. P. Deshmukh, learned AGP for respondent Nos.1 and 2 and Mr. B. R. Survase, learned counsel for respondent no.3/acquiring body.
3. Mr. S. P. Deshmukh, learned AGP for the State and Mr. Survase, learned counsel for respondent no.3/acquiring body strongly opposed to condone the delay. Both of them submitted that there is huge

delay of 3182 days. No sufficient reasons are assigned by the applicants/claimants for condonation of delay. As such the delay application may be dismissed.

4. Mr. Tripathi, learned counsel for the applicants submitted that it is a case of compulsory land acquisition of poor farmers. The delay caused in this case though appears to be huge, it needs to be condoned. So that the claimants may get adequate compensation. He submits that after condonation of delay, this appeal needs to be placed before the Lokadalat for amicable settlement. In view of the fact that appeals arising out of same project have been settled before the Lokadalat.

5. Having considered the submissions of both the sides and in view of guidelines laid down by the Hon'ble Supreme Court in case of **Dhiraj Singh (D) Tr. Vs. Haryana State** reported in **MANU/SC/0778/2014**, the delay needs to be condoned by applying different yardstick in the interest of justice.

ORDER

(i) The civil application is hereby allowed in terms of prayer clauses (A) & (B).

(ii) The applicants shall furnish usual undertaking with the Registrar (Judicial) of this Court stating that they would not claim the statutory benefits and interest in respect of delayed period.

(iii) After furnishing such undertaking, the Registry to make scrutiny of the appeal as per procedure and thereafter, it be numbered and placed before the Lokadalat scheduled to be held on 12th March, 2022 along with undertaking, thereby waiving statutory benefits and interest.

(iv) The civil application is disposed of accordingly.

(SHRIKANT D. KULKARNI, J.)

Sameer