

Shiv

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1687 OF 2019

IN

FIRST APPEAL (ST) NO. 33231 OF 2018

Smt. Kachrabai Sadu Jadhav ...Applicant

Versus

State of Maharashtra Through The S.L.A.O. ...Respondent

Ms. Sheetal Raghani i/b Jay & Co. for the Applicant.
Smt Tanaya Goswami, AGP for the Respondent No.1.
Ms Chaitrali A Deshmukh for Respondent No.2.

CORAM Madhav J. Jamdar, J.

DATED: 21st April, 2022

PC:-

1. Heard Ms.Sheetal Raghani, learned counsel for the Applicants, Smt. Tanaya Goswami, learned AGP for Respondent No.1 and Ms. Chaitrali Deshmukh, learned counsel for Respondent No.2.

2. By this Civil Application, the applicants are seeking condonation of delay of 7 years and 222 days in filing the First Appeal.

3. By this First Appeal, the Applicants/Appellants are challenging the judgment and award dated 13th January 2011

passed by the learned District Judge-3, Nashik in Land Reference No. 185 of 2005. Ms. Raghani submitted that by the impugned judgment and award several land references were disposed of by the common judgment. She submitted that several First Appeals filed challenging said common judgment and award are admitted and pending for hearing. She submitted that the Applicants are villagers and farmers. They are illiterate. She submitted that the Applicants were not aware about the judgment and award and they were facing severe financial constraints. Ms Raghani, learned counsel submitted that several First Appeals are filed by the respective claimant in this Court. She relied on the judgment of this Court passed in Civil Application No.1211 of 2019 in First Appeal (Stamp) No.21865 of 2018 and also relied on the judgment of the Supreme Court in *Imrat Lal and Others v. Land Acquisition, Collector and Others* reported in (2014) 14 SCC 133. She submitted that in these circumstances the delay be condoned.

4. On the other hand Ms.Tanya Goswami, learned AGP for the Respondent-State and Ms.Chaitrali Deshmukh, learned counsel for Respondent No.2 strongly opposed granting of the prayer for the condonation of delay.

5. Perusal of the record shows that by the common judgment and award dated 13th January 2011 the learned District Judge, Nashik disposed of above 33 land references, and similar appeal is filed against the judgment and award from the land reference being First Appeal (Stamp) 34067 of 2018.

6. The Applicants are farmers and they are illiterate. It is stated that due to acquisition of their lands, their families were struggling to find out alternate source of income and, therefore, no steps could be taken to file an Appeal. It is stated in the delay condonation application that since August, 1997 the land of the Applicants was submerged under water due to Mukane Dam Project and after 2003 the suit land came to be acquired by the Respondent No. 1. It is stated that the said land was the only source of income for the family and very meager compensation was paid in 2018. Due to said acquisition the Applicants and their family members were struggling to find alternate source of income. Thus they are suffering from severe financial constraints.

7. This Court in the order dated 20th December, 2019 passed in Civil Application No. 1211 of 2019 in First Appeal Stamp No. 21865 of 2018 (Nagpur Bench) has observed as follows :

“11. One has to take note that applicants are rustic villagers who are by and large illiterate and not conversant with the intricacies of law. Already other similarly situated persons who were affected by the determination of compensation by the Land Acquisition Officer have been granted relief by this Court, and therefore, there is no logic in depriving applicants from getting their rightful claim on the premise of parity. In above referred case of *Imratlal* [supra], the Hon’ble Supreme Court has ruled to take

liberal approach, particularly in the case of villagers whose lands have been acquired. It is further ruled that in case of condonation of delay, the equities can be balanced by denying the interest amount for the said period.

12. In the circumstances, having regard to the peculiarities of this case, the delay is required to be condoned, and it is accordingly condoned. However, applicants/appellants are not entitled for interest for the delayed period. Civil Application is accordingly allowed and disposed of. No costs.”

8. The Supreme Court in the aforesaid judgment of *Imrat Lal and Others V/s Land Acquisition Collector and Others* reported in (2014) 14 SCC 133 has held as follows:-

“We can take judicial notice of the fact that the villagers in our country are by and large illiterate and are not conversant with the intricacies of law. They are usually guided by their co-villagers, who are familiar with the proceedings in the courts or the advocates with whom they get in touch for redressal of their grievance. Affidavits filed in support of the applications for condonation of delay are usually drafted by the advocates on the basis of half-baked information made available by the affected persons.

Therefore, in the acquisition matters involving claim for award of just compensation, the court should adopt a liberal approach and either grant time to the party to file a better affidavit to explain delay or suo motu take cognizance of the fact that large number of other similarly situated persons who were affected by the determination of compensation by the Land Acquisition Officer or the Reference Court have been granted relief.”

9. In said *Imrat Lal* case the Supreme Court has held that the Appellants will not be entitled to interest for the period of delay. In the facts and circumstances of the case, and in view of above referral judgment of the Supreme Court and this Court, the Civil Application is allowed in terms of prayer clause (a). However, it is clarified that the Applicants are not entitled for interest for the delayed period in case this Court enhances the compensation.

10. Ms. Sheetal Raghani states that a copy of the First Appeal will be served on the learned Advocate appearing for Respondent No.2 as well as learned AGP within a period of six weeks.

11. Civil Application is disposed of in the aforesaid terms.

(Madhav J. Jamdar, J.)