

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (F) NO.2160 OF 2022

IN

FIRST APPEAL (ST) NO.1074 OF 2022

{Bhiku Poga Chavan (Dead) thr LRs ..V/s.. The District Collector and
Ors.}

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri V. N. Patre, Advocate for the LRs of Applicant/Appellant.
Ms H. N. Jaipurkar, AGP for the Respondents No.1 and 3.

CORAM : ABHAY AHUJA, J.

DATE : 15th NOVEMBER, 2022.

1. On the last two occasions, Shri Patre, was seeking to address the issue as to how the legal heirs of the deceased land owner not party to the proceedings before the Reference Court could file the appeal after the death of the said land owner which occurred subsequent to the decision of the Reference Court. He submits that the Appellants herein have received the compensation from the Acquiring Body after the death of the original land owner, which was subsequent to the judgment of the Reference Court dated 13.06.2007.

2. Learned counsel draws the attention of this Court to Section 18 of the Land Acquisition Act, 1894, (the "said Act") to submit that any person interested, who has not accepted the award may make reference to the Court to Section 18 of the said Act. He refers to Section 3(b) of the said Act to submit that person interested includes all persons claiming an interest in compensation to be made

on account of acquisition land under the said Act. Learned counsel would submit that Section 4(1) Notification was issued on 12.11.1998, the Land Acquisition Officer passed the award on 09.03.2001, reference under Section 18 of the said Act was filed on 18.09.2002 and the Reference Court has passed its judgment on 13.06.2007.

3. He would submit that Shri Bhiku Poga Chavan the original land owner died on 16.02.2021, whereas the compensation has been paid to the legal heirs on 16.06.2021. He would submit that under Section 54 of the said Act pertaining to appeals, an appeal would lie before the High Court subject to the provisions of the Code of Civil Procedure, 1908, as applicable to Appellants from original decrees. He would submit that since the Acquiring Body has already made the payment of the compensation to the Appellants, being interested persons, they are entitled to file an appeal being dissatisfied with the decree of the Reference Court. Learned counsel has also submitted that the delay in filing this appeal has occurred on account of financial difficulties faced by the Appellants. He would submit that it is only after the receipt of the compensation amount on 16.06.2021, that they decided to prefer the appeal for enhancement of compensation.

4. None appears for the Acquiring Body though served.

5. Learned Assistant Government Pleader for Respondents No.1 and 3 has raised a formal objection to the condonation of delay. She submits that in the event the delay is condoned, the interest for the delayed period be

waived.

6. Having heard learned counsel at length and considering that the Acquiring Body has paid compensation to the Appellants after the death of the original claimant/land owner, the Appellants in my view being interested persons are entitled to file this Appeal against the judgment of the Reference Court.

7. Having heard the learned counsel and having perused delay condonation application, let the delay of 4569 days be condoned subject to waiver of interest for the delayed period. Let the appeal be registered. The application accordingly stands disposed.

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8. Let the memo of appeal with complete annexures be served upon Respondents/Advocates by the next date and an affidavit of service with tangible proof be filed in this Court with respect thereof.

9. List on **12.12.2022.**

(JUDGE)

TAMBE