

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

CIVIL APPLICATION (CAF) NO. 426 OF 2022

IN

FIRST APPEAL NO. 643 OF 2014

The State of Maharashtra, Thru. Collector, Dist. Washim

Vs.

Kasabai Dattarao Wabale

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. M.A. Kadu, AGP for applicant.

Mr. V.N. Patre, Advocate for respondent.

CORAM : ABHAY AHUJA, J.

DATE : 19.10.2022.

This is an application seeking condonation of delay of 1729 days in taking out an application for restoration of the appeal that came to be dismissed for failing to file private paper-book pursuant to the order of this Court dated 27.01.2015.

2. Mr. Kadu, learned AGP also submits that as per practice note 20, it is not mandatory for the State to file private paper-book and as such, such a requirement may also be dispensed with.

3. Although Mr. Patre, learned counsel for the respondent, has filed reply opposing the said restoration submitting that it is only when he filed an application for withdrawal of the amount that the restoration application has come to be filed.

4. Having heard the learned counsel for the appellant and having perused the application, let the delay of 1729 days in filing the application for restoration be condoned. Let the appeal be restored to file.

5. The application accordingly stands disposed. Let the first appeal be registered as soon as possible.

6. With respect to the first appeal, Mr. Kadu, submits that there are only two points that he would like to argue in the appeal, one is the compensation with respect to fifteen trees that has been awarded by reference Court, which he submits is without any evidence. Secondly, he submits that the interest calculations by the reference Court are not in accordance with law. He submits that the interest @ 9% is to be from the date of the award and not from the date of Section 4 (1) Notification and with respect to the interest @ 12%, learned AGP submits

that the same would also require consequential change in accordance with Section 28 of the Land Acquisition Act, 1894.

7. Mr. Kadu, has tendered across the bar, calculation for the consideration of the Court as well as of the claimants so that the matters can be finally disposed.

8. Mr. Patre, learned counsel for the respondent seeks some time to take instructions on the calculation and also to address the Court on the issues argued by Mr. Kadu.

9. List the matter tomorrow i.e. **20.10.2022** at 2:30 p.m. as part heard.

JUDGE