

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

**CIVIL APPLICATION NO. 5322 OF 2022
IN FIRST APPEAL (ST) NO.896 OF 2022**

SAKHARAM S/O MUKTIRAM WAGHMARE
(DIED) THR LRS VIMALBAI S. WAGHMARE ... Applicant

VERSUS

THE STATE OF MAHARASHTRA
THR ITS COLLECTOR, JALNA ANDORS ... Respondents

...
Advocate for the Applicant: Smt. M. V. Narwad
AGP for the Respondents/State: Mrs. P. V. Diggikar
Advocate for Respondent No.3: Mr. R. A. Tambe

...
CORAM : S. G. CHAPALGAONKAR, J.

DATE : 06.07.2023

PER COURT :

1. By this application, the applicant prays for condonation of delay of 4351 days caused in filing the first appeal against the judgment and award dated 09/11/2009 passed by the Reference Court, Jalna, in L.A.R. No.245/2002.

2. The learned Advocate appearing for the applicant submits that the Reference Court dismissed the reference petition since the applicant could not lead the evidence. She would invite attention of this Court to the reasons stated in Paragraph Nos.2 to 4 of the application and would submit that the sufficient cause is made out to condone the delay.

3. The learned Advocate appearing for the respondent vehemently opposes the prayer. However, in alternative, he submits that if this Court favourably considers the prayer of the applicant, the applicant shall not be entitled to claim the interest for the period of delay.

4. It appears that, the applicant had approached the Reference Court seeking enhancement of compensation towards acquired land. However, the reference petition came to be dismissed. Considering the fact that, the applicant is litigating for getting just compensation towards acquired land and also considering the reasons as stated in Paragraph Nos.2 to 4 of application, it would be just and proper to condone the delay caused in filing the appeal, however, subject to condition that the applicant shall not be entitled to claim interest for the period of delay on enhanced compensation if so granted and files such undertaking before the Registrar of this Court. Hence, I proceed to pass the following order:

ORDER

- (i) Civil Application is allowed in terms of prayer clause - 'B' subject to undertaking as indicated above and the same is disposed of accordingly.
- (ii) Office to verify and register the appeal.

(S. G. CHAPALGAONKAR, J.)