

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

974 CIVIL APPLICATION NO.7983 OF 2022
IN RC/1113/2011

ABA S/O SITARAM PAWDE (DIED) LRS GANGABAI (DIED) THR LRS
PANDHARINATH (DIED) THRLRS YAMUNABAI AND
VERSUS
THE STATE OF MAHARASHTRA THR THE COLLECTOR, PARBHANI AND
ORS

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Advocate for Applicants : Mr. Deepak M. Kakade
AGP for Respondents: Mr. S.S. Dande.
Advocate for R-3 : Mr. Shyam Arora.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 18TH AUGUST, 2023

ORDER :-

The registration of appeal has been refused for non payment of Bhatta. Mr. Kakade learned advocate for the applicant submits that because of inadvertent error, the applicant could not note the conditional order that was passed. As such, matter suffered dismissal. He would submit that it was inadvertent error on the part of the advocate or his clerk who was looking after the matter. He would further submit that many other matters from the same acquisition have been recently stayed in the Lok Adalat dated 25.9.2021 and the Acquiring Body granted enhanced amount of compensation.

2. He would, therefore, urge that the delay caused in filing this application may be condoned and the matter be restored to file and the order of dismissal on C.A. No. 11012 of 2010 may kindly be recalled.

3. Mr. Arora, learned advocate for respondent Acquiring Body vehemently opposes the application. He submits that there is a huge delay of 11 years in filing the present application. The explanation tendered can not be considered as sufficient cause to condone the delay. He would further submit that the Acquiring body would unnecessarily face liability towards huge interest, if the application is allowed. The applicant would not be entitled to interest for the period of delay.

4. Having considered the submissions advanced, it is clear that the applicants herein are litigating for just compensation of their acquired land. By order dated 2.9.2011 this court had issued the notice in the civil application. However, on failure to deposit the Bhatta application has suffered dismissal. Therefore, it could be just and proper to condone the delay and restore the civil application alongwith first appeal to its file. However, the respondent Acquiring Body would be at liberty to seek waiver of interest for the delayed period at the time of hearing of the application for delay condonation, if so advised.

5. In view of the above, civil application is allowed in terms of prayer clauses (B) and (C). The applicant would be at liberty to file appropriate pursis for prayer clause (D). Copy of this order be made part of the application for condonation of delay.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-