

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

**916 CIVIL APPLICATION NO.5536 OF 2020
IN FAST/7924/2019**

**NARSING GOBAJI PATIL
VERSUS
DISTRICT COLLECTOR, JALGAON AND ORS**

**AND
917 CIVIL APPLICATION NO.5537 OF 2020
IN FAST/8147/2019**

**SUBHASH SITARAM PATIL
VERSUS
DISTRICT COLLECTOR, JALGAON AND ORS**

**AND
927 CIVIL APPLICATION NO.5634 OF 2020
IN FAST/7941/2019**

**NIMBA NATTHU KOLI
VERSUS
DISTRICT COLLECTOR, JALGAON AND ORS**

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Advocate for Applicant : Mr. Yogesh R. Neb h/f. Kale Ajeet B.
AGP for Respondents/State : S/Shri P.K. Lakhotiya, S.B. Yawalkar
& S.W. Munde
Advocate for R/4 : Mr. Bipinchandra Patil K.

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**CORAM : Y.G. KHOBRAGADE, J.
DATE : 30.06.2023**

PC.:-

1. Heard Mr. Yogesh Neb the learned counsel appearing for the applicants, Mr. Patil learned counsel appearing for the respondent no.4 and

the learned AGP for the respondent nos.1 to 3 at length.

2. In these three civil applications a common question arises i.e. whether the delay ranging between 345 to 387 which has been caused while lodging the appeals can be condoned.

3. The learned counsel appearing for the applicants vehemently canvassed that the respondent no.4-acquiring body acquired the applicants land for public project under notification published on 02.03.2006 under Section 4 of the Land Acquisition Act. Accordingly, the S.L.A.O. determined the compensation but all these applicants were not satisfied with the said award, therefore the applicants made references to the competent Court.

4. On 01.11.2017, the learned trial Court decided all land references but granted meager amount of compensation. Therefore, the applicants have preferred independent appeals and prayed for enhancement of compensation in regard to acquisition of their lands, however, due to financial crisis and lack of legal knowledge they could not file the appeals within statutory period of 90 days and delay ranging between 345 to 387 days was caused respectively in lodging the appeals. The learned counsel appearing for the applicants placed reliance on the case of **Dhiraj Singh (dead) through legal representatives and others V/s. State of Haryana and Others; (2014) 14**

Supreme Court Cases 127, wherein it has been held that while condoning the delay in the matters of land acquisition for enhancement of compensation, approach of the Court should be pragmatic and not pedantic. The substantive rights of the land owners cannot be allowed to be defeated on technical grounds by taking hyper-technical view.

5. Per contra, the learned counsel appearing for the acquiring body strenuously opposed the applications and submitted that the grounds which have been set out by the applicants are not *bona fide* and substantial, so also the delay has not been properly explained. Hence prayed for rejection of the applications.

6. It is not in dispute that the land of the present applicants have been acquired under notification dated 02.03.2006 published under Section 6 of the Land Acquisition Act. It is an admitted fact that on 05.08.2009 the S.L.A.O. determined the compensation for the acquired land. Since the applicants were not satisfied with the said awards they made references to the learned trial Court. On 01.11.2017, the learned trial Court passed the judgment and award and granted meager compensation to the applicants for acquired lands. No doubt, the present applicants have preferred appeals and prayed for enhancement of compensation but due to lack of knowledge and their poor financial condition they could not approach the Court and the delay

has been caused. Therefore, considering the reasons set out in present application as well as ratio laid down by the Hon'ble Supreme Court in the case of **Dhiraj Singh** cited (supra), the delay ranging between 345 to 387 days caused while lodging the appeals is liable to be condoned with a view that the appellants who are land owners, their substantive rights should not be allowed to be defeated on technical grounds. In view of the above discussion, I am inclined to allow the present applications and proceed to pass the following order:

ORDER:

- I) The delay caused in lodging the appeals in all these Civil Applications is hereby condoned. However, the applicants would not be entitled for interest and statutory benefits on the delayed period.
- II) Accordingly, the applications are allowed.
- III) Office to register the appeals and place before the Court for further action.

[Y.G. KHOBRADE, J.]