

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 4134 OF 2020 IN
FIRST APPEAL ST. NO. 27805 OF 2019

Pandhari Haribhau Navtakke & others Applicants

Versus

The State of Maharashtra & others Respondents

WITH
CIVIL APPLICATION NO. 4135 OF 2020 IN
FIRST APPEAL NO. 28224 OF 2019

Dashrath Vyankatrao Navtakke Applicant

Versus

The State of Maharashtra & others Respondents

WITH
CIVIL APPLICATION NO. 4136 OF 2020 IN
FIRST APPEAL ST. NO. 28230 OF 2019

Samarth Wamanrao Navtakke Applicant

Versus

The State of Maharashtra & others Respondents

WITH
CIVIL APPLICATION NO. 4137 OF 2020 IN
FIRST APPEAL NO. 28222 OF 2019

Ramesh Wamanrao Navtakke Applicant

Versus

The State of Maharashtra & others Respondents

WITH
CIVIL APPLICATION NO. 4138 OF 2020 IN
FIRST APPEAL ST. NO. 28227 OF 2019

Waman Gyanoba Navtakke

Applicant

Versus

The State of Maharashtra & others

Respondents

Mr. H. B. Nandgawale, Advocate for the applicant.

Mrs. V. N. Patil-Jadhav, AGP for respondents No. 1 and 2.

CORAM : R. M. JOSHI, J.

DATE : 15th FEBRUARY, 2023.

PER COURT :

1. These are the applications for condonation of delay of 2693 days occurred in filing the first appeals.

2. Heard learned counsel for the applicants and learned AGP for respondents No. 1 and 2. None appears for respondent No. 3/acquiring body. This shows that the said respondent is not serious for opposing the applications.

3. It is the contention of the claimants/applicants that due to financial difficulties, the appeals for enhancement of compensation could not be filed in time. The other difficulties faced by them which

were the cause for non-filing of the present appeals in time are elaborated in the applications.

4. Learned advocate for the applicants submitted that in the facts of the case and in the interest of justice, delay caused in filing the appeal be condoned. The said contention is strongly opposed by learned AGP.

5. It is settled position of law by the orders passed by the Hon'ble Apex Court that in case of land acquisition cases, the Court cannot take pedantic approach for condonation of delay and substantive rights of land owners cannot be allowed to be defeated on technical grounds. In this regard reference can be made to the judgments in the matter of Dhiraj Singh vs. State of Haryana and others reported in **(2014) 14 SCC 127** and Imratlal and others vs. Land Acquisition, Collector, and others reported in **(2014) 14 SCC 133**.

6. In a case where there is compulsory acquisition of the land, the claimant is entitled to receive adequate compensation. If he is aggrieved by the order passed by any authority, he has a right to

prefer appeal against such order and to seek enhancement in accordance with law. This right cannot be denied on technicalities. The applicant herein has provided reason for not preferring appeal in time, which in absence of any malafides deserves to be accepted. However, at the same time, appellant cannot be allowed to take advantage of the delay and respondents cannot be burdened with liability to pay interest on enhanced amount for the said period. In the circumstances, equity can be balanced by denying any amount of interest to the claimant on enhanced compensation, if any, till the date of filing of appeal. Hence the order :-

ORDER

- i) Applications are allowed.
- ii) Delay of 2693 days caused in preferring appeals stands condoned.
- iii) Appeals be registered.
- iv) Applicants are not entitled to receive any amount of interest on enhanced compensation upto the date of filing of appeal, if they succeed in the appeal.
- v) Civil applications stand disposed of.

(R. M. JOSHI)
Judge

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DATE : 15th FEBRUARY, 2023.

PER COURT :

1. Heard.
2. Issue notice to respondents returnable on 15th March, 2023. Learned AGP waives service of notice on behalf of respondents No. 1 and 2.

(R. M. JOSHI)
Judge

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