

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 1238 OF 2018 IN
FIRST APPEAL ST. NO. 41668 OF 2017

Tejrao Ramrao Gaund

Applicant

Versus

The State of Maharashtra & others

Respondents

Mr. H.B. Nandgawale, Advocate for the applicant.
Mr. P. G. Borade, AGP for the State.

WITH
CIVIL APPLICATION NO. 1239 F 2018 IN
FIRST APPEAL ST. NO. 41912 OF 2017

Kedarnath Nagnath Chandawar

Applicant

Versus

The State of Maharashtra & others

Respondents

Mr. H.B. Nandgawale, Advocate for the applicant.
Mr. P. G. Borade, AGP for the State.

CORAM : R. M. JOSHI, J.
DATE : 6th FEBRUARY, 2023.

PER COURT :

1. These are the applications for condonation of delay of 2115 days in filing first appeals.

2. Heard learned advocate 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 application.

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 facts of the case and in the interest of justice, delay caused in filing the appeals 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 applicants herein have provided reason for not preferring appeal in time, which in absence of any malafides deserves to be accepted. However, at the same time, appellants 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 claimants on enhanced compensation, if any, till the date of filing of appeals. Hence the order :-

ORDER

- i) Applications are allowed.

- ii) Delay of 2115 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.

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(R. M. JOSHI)
Judge

dyb