

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**CIVIL APPLICATION (CAF) NO. 68/2020 IN**  
**FIRST APPEAL ST. NO. 366/2018**

Parvatibai Wd/o Vitthalrao Murumkar And Others

Vs

The State Of Maharashtra Through Collector, Akola And Others

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Office Notes, Office Memoranda of  
Coram, appearances, Court's Orders  
or directions and Registrar's order

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Court's or Judge's Order

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Mr A.S. Mehadia, counsel for the applicant/appellant.

Mr K.L.Dharmadhikari, AGP for the non-applicant No. 1.

Mr Najeeb Sheikh, counsel h/f Mr M.M. Agnihotri, counsel  
for the non-applicant No.2.

**CORAM : URMILA JOSHI-PHALKE, J.**

**DATED : 24/03/2023.**

1. Heard.
2. The present application is filed by the applicant for seeking condonation of delay.
3. Learned counsel for the applicant submitted that the applicant was the owner of field survey No. 154/2 and Gut No. 140 of village Yeota, Tq. & Dist. Akola. The said land was acquired by non-applicant No.2. The applicant had received the compensation amount under protest and filed the reference petition bearing No. 314/1997, but the same was dismissed. However, the counsel for the applicant never informed her, and the reference petition was dismissed. The applicant came to know about the dismissal of the petition recently, thereafter, she filed an application for certified copies. The appeal ought to have been filed by the applicant within the limitation period. However, the counsel has not

informed her about the dismissal of the reference petition. She could not file the appeal within the time and therefore, the delay is caused. The said delay is not due to the fault of the applicant, however, the same is malafide Act of the then counsel of the applicant. Considering the reasons mentioned in the application delay which is satisfactory and sufficient reason deserves to be condoned.

4. The said application is strongly opposed by Mr Najeeb Sheikh, counsel h/f Mr M.M. Agnihotri, learned counsel for the non-applicant No.2 on the ground that the delay is intentional and not properly explained and hence deserves to be rejected.

5. Heard both the sides. Perused the application.

6. The application is supported by a copy of the award. It is apparent that the reference Court dismiss on 13/12/2005. In the affidavit, the applicant has stated that it was the counsel, who has not informed about the dismissal of the proceedings. On the contrary, the wrong information was supplied to the applicant, and believing the same, the applicant who is a rustic villager has not taken any steps to file the appeal. The reasons mentioned in the application appear to be just and reasonable. A judicial note can be taken that the litigants always rely upon their counsels, who are the rustic villagers. The litigants always suffered due to the wrong information supplied either by the counsels or on behalf of the counsels.

7. Hear in the present case, it is apparent that as the wrong information was supplied she could not approach the court for preferring the appeal. The reason mentioned in the application is just a reasonable one. It is well settled that while considering the delay application liberal approach is to be taken to do substantial justice and the litigants to be permitted to litigate their cause on merits.

8. For the reasons stated in the application, the delay is condoned. The application is allowed and disposed of.

**First Appeal St. No. 14820/2021**

First appeal be registered.

2. Admit.

3. Call for record and proceedings.

4. Mr. K.L.Dharmadhikari, learned AGP waives service of notice on behalf of respondent no.1.

5. Mr. Najeeb Sheikh, counsel h/f Mr. M.M.Agnihotri, learned counsel waives service of notice on behalf of respondent No.2.

6. Appellant to file private paper-book within a period of ten weeks after receipt of record and proceedings.

7. Appeal be placed before the Court for final hearing after filing of private paper-book and its verification, as per its own turn.

**JUDGE**