

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

CIVIL APPLICATION (CAF) NO. 1225/2023 IN
FIRST APPEAL ST NO. 931/2019

Pema S/O Hemla Rathod (Dead) Thr. Lrs. Namdeo S/O Pema Rathod And Others
Vs

The State Of Maharashtra Through Collector, Yavatmal And Another

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

Court's or Judge's Order

Mr S.V. Ingole, advocate for the appellants/applicants.

Mr M.A. Kadu, AGP for the non-applicants/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 26/04/2023.

1. Heard.

2. The present application is for condonation of delay which is caused in preferring the appeal against the judgment and award passed by the 2nd Adhoc Additional District Judge, Pusad in LAC No. 214/1993.

3. Mr M.A. Kadu, learned AGP waives service of notice on behalf of respondent Nos. 1 and 2.

4. The application for condonation is filed on the ground that the applicants are poor agriculturists and not aware of the legal intricacies. Moreover, their land is already acquired by the Government long back and no compensation amount was disbursed to them. Therefore, they could not arrange the amount to pay the Court fee stamp and therefore, a delay of 465 days is caused in preferring the appeal.

5. It is the contention of the applicants that the delay is not an intentional one. There is satisfactory and reasonable cause for condonation of delay. Hence, the delay be condoned.

6. Mr M.A. Kadu, learned AGP raised a strong objection on the ground that if the inordinate delay is caused in preferring the appeal and no sufficient and reasonable cause is mentioned in the application and therefore, the application deserves to be rejected.

7. Heard learned advocate Mr S.V. Ingole for the applicants. He reiterated the said contentions and placed reliance on *Imrat Lal and others ..V/s.. Land Acquisition Collector and others, reported in 2014 (9) SCALE 446*.

8. Per contra, Mr M.A. Kadu, learned AGP submitted that the reasons mentioned in the application are not at all satisfactory. In addition to that he submitted that if this Court comes to the conclusion that delay deserves to be condoned, it be condoned, subject to the waiver of the interest not only on the compensation amount but the interest on the statutory amount also.

9. Heard both the sides. Perused the application. The only ground raised by the applicants are that they were facing financial crises as well as they were unaware about the legal intricacies. The Hon'ble Apex Court in the case of *Imrat Lal and others* referred (supra) has already dealt with this issue and held that the judicial notice of the fact that the villagers in our

country are by and large illiterate and are not conversant with the intricacies of the law. They are usually guided by their co-villagers, who are familiar with the proceedings in the Courts or the advocates with whom, they get in touch for redressal of their grievances. Affidavits filed in support of the application for condonation of delay are usually drafted by the advocates on the basis of half-baked information made available by the affected persons. Therefore, in the acquisition matters involving a claim for award of just compensation, the Court should adopt a liberal approach and either grant time to the party to file a better affidavit to explain delay or *suo motu* take cognizance of the fact that the large number of other similarly situated persons, who were affected by the determination of compensation by the Land Acquisition Officer or the Reference Court have been granted relief.

10. In view of the above observations of the Hon'ble Apex Court and considering the similar reasons mentioned in the application, delay deserves to be allowed. However, it is pertinent to note that the stay is saddled with the responsibility of paying the interest at the rate of Rs. 15% which is excessive. In view of that, delay deserves to be condoned, subject to the waiver of the interest of the compensation amount as well as the statutory amount, if the applicants succeed in the appeal in the enhancement of the compensation.

In view of the reasons mentioned in the application, the delay is condoned. Civil Application is **disposed of**.

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1. First Appeal be registered.
2. **Admit.**
3. Ms M.A. Kadu, learned AGP waives service of notice on behalf of respondent Nos. 1 and 2.
4. Call for record and proceedings.
5. Appellants to file private paper book within a period of ten weeks after receipt of the record and proceedings.
6. Appeal be placed before the Court after filing of private paper-book and its verification as per its own turn.

JUDGE