

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (F) NO.1148 OF 2023

IN

FIRST APPEAL (ST) NO.1900 OF 2023

[Akbar Jamal Malnas (Dead) and Ors. ..V/s.. State of Maharashtra and
Ors.]

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mr I. M. Ghongade, Advocate for Applicants/Appellants.
Ms T. H. Udeshi, AGP for Respondent Nos.1 to 3.
Mr T. Zaheer, Advocate for Respondent No.4.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 28th APRIL, 2023.

. Present application is for condonation of delay of 2676 days, which is caused in filing the appeal.

2. Ms Udeshi, learned Assistant Government Pleader waives notice for respondent Nos.1 to 3 and Mr Zaheer, learned Advocate waives notice for respondent No.4.

3. The application is filed on the ground that the Reference Court has awarded inadequate compensation to the original claimant. However, he has not challenged the same, as he was facing financial crisis. This Court in **First Appeal No.803 of 2004 (Madhavrao Govindrao Awagan ..V/s.. The State of Maharashtra and Ors.)** decided on 03.11.2017 has enhanced the compensation amount. In view of the decision in First Appeal No.803 of 2004, the applicant is also entitled for the enhanced compensation amount. For the technical reasons, he cannot be deprived from the same. It is the further ground raised by the applicant is that due to financial crisis, he could not file the appeal

within time, therefore the delay is caused.

4. The said application is strongly opposed by Mr Zaheer, learned Advocate and Ms Udeshi, learned AGP on the ground that the delay is not properly explained.

5. Heard both the sides. Perused the application. The applicant is illiterate person not aware about the legal intricacies. Moreover, the Hon'ble Apex Court has observed in the case of *Imrat Lal and Others ..V/s.. Land Acquisition Collector and Others*, reported in *(2014) 14 SCC 133*, that in the connected matters, if the claimants received the compensation at the enhanced rate then the applicants cannot be deprived of for the technical reasons and condoned the delay on the waiver of interest. In view of the decision in *Imrat Lal* (supra), in the present application also, the delay of 2676 days deserves to be condoned subject to the waiver of the interest.

6. In view of the above, the civil application is allowed and delay of 2676 days is condoned. Appeal be registered and numbered accordingly.

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7. Heard.

8. **Admit.**

9. Call for Record and Proceedings.

10. Ms Udeshi, learned AGP waives notice for respondent Nos.1 to 3 and Mr Zaheer, learned Advocate waives notice for respondent No.4.

11. Paper-book is disposed with as the issue is covered by the earlier judgment of this Court.

12. Appeal be placed before the Court after receipt of record and proceedings.

JUDGE.