

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

CIVIL APPLICATION NO.1788 OF 2022

IN

FIRST APPEAL (ST.) NO.2583 OF 2022

(Kisan Rupla Rathod – Vs. - The State of Maharashtra and ors.)

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

Court's or Judge's Order

Shri V.N. Patre, Advocate for the appellant.

Ms M. Babhulkar, Advocate h/f Shri M.A. Kadu, Advocate for
respondent No.2.

Ms S. Haider, AGP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- JANUARY 05, 2023.

Heard.

2. By this application, the applicant is seeking condonation of delay of 3971 days caused in filing the present appeal. As per the contention of the applicant he is aggrieved by the judgment and award passed by the Joint Civil Judge, Senior Division, Pusad, District Yavatmal in L.A.C. No.327/2002 dated 31/01/2009.

3. By this appeal, original claimants are seeking enhancement of the compensation, however delay of 3971 days is caused in filing the appeal.

4. It is submitted on behalf of the applicant that the applicants are the original land owners. After passing of the award by the Reference Court the respondents have not deposited the compensation amount. Thereafter there

was Covid-19 pandemic situation, therefore, the applicant could not file the appeal. Thus, the delay caused is bonafide one and there is a reasonable and justifiable reason for condonation of delay.

5. The application is strongly opposed by the respondents on the ground that the delay is deliberate and intentional one. If this court comes to the conclusion that delay is to be condoned then it is to be condoned on the condition that the applicant shall waive the interest and statutory benefits.

6. In support of the contention, learned Counsel for the respondent No.2 placed reliance on ***New Okhla Industrial Development Authority Vs. Rameshwar @ Ramesh Chandra Sharma (dead) thr. Legal Heir and anr. 2022 SCC OnLine SC 1599*** wherein delay of 22 years is condoned by the Hon'ble Apex Court on waiver of statutory benefits and the interest under the Land Acquisition Act, 1894. She further placed reliance on ***New Okhla Industrial Development Authority Vs. Omvir Singh and ors. 2022 DGLS (SC) 1627*** wherein delay of 16 years was condoned on waiver of statutory benefits and the interest.

7. On the other hand, Shri V.N. Patre, learned Counsel for the appellant placed reliance on ***Ningappa Thotappa Angadi (dead) thr. LR's. Vs. The Special Land Acquisition Officer and anr. 2019 (17) SCALE 635*** wherein delay of 2928 days was condoned on waiver of the

interest. He further placed reliance on ***Ram Chander (deceased) thr. His legal representatives and ors. Vs. Union of India and another (2020) 15 SCC 491*** wherein also delay of 6593 days was condoned on waiver of interest and lastly he placed reliance on ***Imratlal and ors. Vs. Land Acquisition Collector and ors. (2014) 14 SCC 133*** wherein Hon'ble Apex Court observed in paragraph No.11 which is reproduced hereunder for reference :

“We can take judicial notice of the fact that villagers in our country are by and large illiterate and are not conversant with the intricacies of 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 grievance. Affidavits filed in support of the applications 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 claim for award of just compensation, the Court should adopt a liberal approach and either grant time to the party to file better affidavit to explain delay or suo motu take cognizance of the fact that 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.

8. He also placed reliance on the orders passed by this Court in ***Civil Application (CAF) No.3352/2018 in First Appeal (St.) No.130/2018 (Bhiku s/o Chandu Jadhao Vs. The Collector, Yavatmal and ors.)*** dated 24/07/2019.

9. Heard both the sides and perused the application.

10. The Reference Court has passed award on 31/01/2009 thereafter the appellant has not referred the appeal as per the contention of the appellant he received the copies on 28/09/2020, however due to Covid-19 pandemic, he could not file the appeal.

11. I have considered the entire submission of both the sides. Admittedly, delay of 9 years and more is caused in filing the appeal. As observed by the Hon'ble Apex Court in the case of Imratlal and ors. (*supra*) judicial notice of the fact can be taken that villagers in our country are by and large illiterate and are not conversant with the intricacies of law. They are usually guided either by their co-villagers or by the advocates with whom they get in touch for redressal of their grievances. It is also well settled that liberal and pragmatic approach is to be taken while considering the delay application and no pedantic approach is appreciable.

12. Though learned Counsel for the respondent No.2 placed reliance on the judgment of the Hon'ble Apex Court in the case of New Okhla Industrial Development Authority Vs. Rameshwar (*supra*) and New Okhla Industrial Development Authority Vs. Omvir Singh and ors. (*supra*), admittedly in the case of New Okhla Industrial Development Authority Vs. Rameshwar (*supra*) the earlier judgments are not referred and in another

judgment also the earlier judgment of the Hon'ble Apex Court are not referred. Moreover, considering 22 years delay Hon'ble Apex Court condoned delay on waiver of statutory benefits and interest. As observed by the Hon'ble Apex Court in Imratlal and ors.(supra) that statutory benefits is the mandate of the law and the applicants cannot be deprived from getting the said benefit, which is to be granted by the statute.

13. In view of the above said reasons, application for condonation of delay deserves to be allowed on waiver of the interest of delayed period of 3971 days.

14. Civil application is disposed of accordingly.

(URMILA JOSHI-PHALKE, J.)

**Divya*