

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

CIVIL APPLICATION (F) NO.1944 OF 2022 IN
FIRST APPEAL (ST) NO.3611 OF 2022

[Madhav Shamrao Korde ..V/s.. The 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 P. S. Kshirsagar, Advocate for Appellant.
Ms T. H. Udeshi, AGP for Respondent Nos.1 and 2.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 25th APRIL, 2023.

1. Present application is for condonation of delay of 725 days, which is caused in preferring the appeal.

2. Learned Assistant Government Pleader already waived notice for respondent Nos.1 and 2. Ms Patil, learned Advocate waives notice for respondent No.3.

3. Present appeal is preferred by the appellant for enhancement of the compensation on the ground that the Reference Court has not considered the evidence on record and awarded inadequate compensation. However, as the appellant is poor agriculturist not aware of the legal intricacies, he could not approach to the Counsel to prefer an appeal. The further ground raised by the appellant is that he is 65 years old and his entire land was acquired, so he was not having any source of income and he was facing financial constraints, therefore he could not file the appeal within time. It is submitted that there is sufficient and reasonable cause for condoning the delay.

4. The said application is strongly opposed by the learned Advocate Ms Patil on the ground that the delay is not properly

explained. Learned AGP endorsed the same contention.

5. Considering the appellant's land acquired by the Government under the compulsory acquisition, the appellant has claimed enhanced compensation of amount under the beneficial legislation. He is more than 65 years old having no source of income, and therefore, he could not arrange the amount to pay the Court fees stamp, and therefore, the appeal is not filed within time. It is well settled that while considering the delay condonation application, liberal approach is to be taken to do the substantial justice.

6. In view of the above, the application is allowed and delay of 725 days is condoned subject to the waiver of the interest for the delayed period. Appeal be registered and numbered accordingly.

7. The civil application is disposed of.

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8. Heard.

9. **Admit.**

10. Call for Record and Proceedings.

11. Learned AGP waives notice for respondent Nos.1 and 2. Ms Patil, learned Advocate waives notice for respondent No.3.

12. Appellant to file the private paper-book within ten weeks after receipt of record and proceedings.

13. The appeal be placed before the Court for final hearing after filing of paper-book and its verification, as per its own turn.