

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

CIVIL APPLICATION (F) NO.2014 OF 2021

IN

FIRST APPEAL (ST) NO.4303 OF 2020

[Inderchand S/o Tejmal Nahata and Anr. ..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 N. B. Kalwaghe, Advocate for Applicants/Appellants.
Mr K. L. Dharmadhikari, AGP for Respondent Nos.1 and 2.
Mr P. Patil, Advocate for Respondent No.3.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 14th MARCH, 2023.

. This application is for condonation of delay of 1020 days, which is caused in preferring the appeal.

2. The applicants/appellants are the original claimants, whose land is acquired by the Government. Being aggrieved and dissatisfied with the rate awarded by the Land Acquisition Officer, these applicants filed L.A.C. No.92 of 2009, which was disposed of on 10.02.2017. The claimants have preferred this appeal as the reference Court has awarded the inadequate compensation, however, delay is caused in preferring the appeal.

3. As per the contention of the claimants, local Counsel advised the applicants to file appeal for further enhancement of the compensation. Thereafter, they approached to the Court for obtaining the certified copies. However, they were facing the financial crisis as their land was already acquired and they have no source of income. Therefore, they could not approach to the Court within time to prefer an appeal. Thus, there is *bona fide*

and sufficient reason for condonation of delay.

4. Said application is strongly opposed by Mr Patil, learned Advocate for respondent No.3 and the learned Assistant Government Pleader for respondent Nos.1 and 2 on the ground that the delay is not properly explained.

5. Heard Mr Kalwaghe, learned Advocate for applicants. He made a statement on the instructions that the claimants are ready to waive the interest for the delayed period.

6. After perusal of the application, it appears that the claimants have preferred this appeal for enhancement of the compensation. The reason mentioned in the application for the delay is that due to the financial crisis, they could not arrange the money to pay the Court fee, and therefore, appeal is not filed within time. The claimants have already shown the willingness to waive the interest for the delayed period. It is well settled that while considering the delay condonation application, especially when the compensation is claimed under the provisions of beneficial legislature, liberal approach is to be taken to do substantial justice.

7. In view of the above, application is allowed. Delay of 1020 days is condoned subject to the waiver of the interest on compensation amount as well as on the statutory amount for the delayed period. Appeal be registered and numbered accordingly.

8. Civil Application No.2014 of 2021 is disposed of.

FIRST APPEAL (ST) NO.4303 OF 2020.

9. **Admit.**

10. Call for Record and Proceedings.

11. Appellants to file the private paper-book within eight weeks after receipt of the record and proceedings. Place the matter after paper-book is filed, its verification, as per its own turn.

JUDGE