

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

CIVIL APPLICATION (CAF) NO. 2481/2022 IN
FIRST APPEAL STAMP NO. 4568/2022

Govinda Ukandaji Dudhe (Dead) Thr. Lrs. Ashok Govinda Dudhe & Others
Vs
The State Of Maharashtra Through Its District Collector, Yavatmal And Others

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

Court's or Judge's Order

Mr A.A. Mankar, Advocate for the appellants/applicants.
Ms Shamshi Haider, AGP for the respondent Nos.1 and 2.
Mr Ghurde, Advocate for the respondent No.3.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 27/02/2023.

1. Heard.
2. By preferring this application, the appellants are seeking condonation of delay of 492 days which is caused in preferring the appeal for enhancement of the compensation.
3. As per the contention of the appellants they have preferred the first appeal before this Court, as they are aggrieved by the judgment and award passed by the learned Civil Judge Senior Division, Darwah dated 28/08/2018 for enhancement of the compensation.
4. It is further contention of the appellants that though the judgment and award was passed by the reference Court on 28/08/2018 however, the amount of compensation was received by the appellants on 15/11/2021. All the

appellants are residing in different places and few of them are senior citizens. Moreover, they are rustic villagers and unaware about the legal provisions and remedies. Therefore, they could not approach to the counsels for filling the appeal and hence delay is caused.

5. It is submitted that the delay is not intentional one. There is sufficient and justifiable reasons for the condonation of delay and hence delay be condoned.

6. The said application is strongly opposed by the learned Advocate Ghurde for respondent No.3/Zilla Parishad.

7. Mrs Shamshi Haider, learned AGP has no objection for the respondent Nos. 1 and 2.

8. On the ground that reasons mentioned in the application is not sufficient and justifiable one and therefore, application deserves to be rejected.

9. Heard both the sides. Perused the application.,

10. Admittedly some of the appellants are senior citizens. They are villagers. The lands of the applicants were acquired by compulsory acquisition, they have received the compensation amount on 15/11/2021.

11. It is pertinent to note that the rustic villagers could not get the proper advice and therefore, they did not approach to the counsels for filing the appeals.

12. Considering the appellants are rustic villagers and illiterate person. The expression sufficient caused should

receive a liberal construction so as to advance substantial basis. It is well settled that while considering the delay application, liberal and pragmatic approach and is appreciated and not the pedantic approach. The litigants are to be permitted to litigate their cause on merit. In view of well settled legal position here also, the sufficient reasonable caused is made out by the applicants, in view of that application deserves to be allowed. Subject to the waiver of the interest from 15/11/2021 till 19/03/2022 i.e. date of the filing application.

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1. Appeal be registered.
2. Call for record and proceedings.
3. Mrs Shamasi Haider, learned AGP waives service of notice on behalf of respondent Nos. 1 and 2.
4. Mr Ghurde, learned advocate waives service of notice on behalf of respondent No.3.
5. Appellant to file private paper book within a period of ten weeks after receipt of record and proceedings.
6. Place the appeal before the Court after filing of private paper book and its verification.

JUDGE