

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

CIVIL APPLICATION (F) NO.1479 OF 2022

IN

FIRST APPEAL (ST) NO.5318 OF 2022

[Sheshrao Bhujangrao Sirsat 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

Ms D. V. Sapkal, Advocate for Applicants/Appellants.
Ms T. H. Udeshi, AGP for Respondent Nos.1 and 2.
Mr U. A. Gosavi, Advocate for Respondent No.3.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 28th APRIL, 2023.

. By this application, the applicants/appellants are seeking condonation of delay of 191 days, which is cause din preferring the appeal.

2. The application is filed on the ground that the claimants have preferred the reference petition for enhancement of the compensation, which was decided on 09.07.2019. However, the claimants got knowledge in September-2019 from their Advocate appearing on their behalf. It is further the contention that the applicant No.1 is the only person who looked after the matter. He was out of station for family function, therefore could not contact the Advocate. On 25.11.2019, applicant visited the Office of the local Advocate and discussed about the impugned judgment and award. After discussion, he came to the conclusion that he has to challenge the same before this Court. The applicant with intention to challenge the impugned judgment and award contacted the Advocate at Nagpur, and thereafter, he came to know that he requires certified copy of the judgment, however,

due to covid pandemic, he could not obtain the copy of the same. Thereafter, he applied for the certified copy, so there is delay of 191 days in preferring the appeal. He further submitted that the delay caused in preferring the appeal is satisfactory and reasonable cause, hence the delay be condoned.

3. The said application is strongly opposed by the learned Advocate Mr Gosavi for respondent No.3 on the ground that the appellants were having knowledge in September-2019 itself about passing of the impugned judgment and award, however they were not diligent in preferring the appeal. Hence, there is no satisfactory and reasonable cause for condonation of delay. Learned Assistant Government Pleader endorsed the same contention.

4. Heard both the sides. Perused the application. It is apparent from the pleading of the application itself that they got knowledge about the judgment and award passed in the Reference Court during the limitation period i.e. on September-2019. It is further apparent that the appellants have not applied for the certified copy and not shown their diligence to prefer the appeal. The ground of covid pandemic is also not available to the applicants. Considering the covid pandemic period started from March-2020, whereas the judgment and award was passed much prior to that and limitation period expired on 07.10.2019. However, considering that the land of the claimants is already acquired by the Government under the compulsory acquisition, the claimants are claiming the compensation under the beneficial legislation. They cannot be deprived from raising their cause for technical reasons. However, considering the fact that the State has

to pay the interest at the rate of 15% till realization of the amount. In view of that the claimants would not be entitled for any interest for the delayed period. It is further apparent that though application is filed in March-2022, the matter was circulated and notices were issued on 15.02.2023.

5. Considering all these aspects, the application is allowed and delay of 191 days is hereby condoned subject to the waiver of interest from 08.10.2019 till 14.02.2023. The appeal be registered and numbered accordingly.

6. The civil application is disposed of.

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7. Heard.

8. **Admit.**

9. Call for Record and Proceedings.

10. Appellants to file the private paper-book within ten weeks, after receipt of record and proceedings.

11. Appellants are directed to supply the copy of the paper-book as well as appeal memo to the other side.

12. Appeal be placed before the Court for final disposal, after filing of paper-book and its verification, as per its own turn.

JUDGE.