

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

CIVIL APPLICATION (CAF) NO.85 OF 2022
IN
FIRST APPEAL STAMP NO.6197 OF 2021

Shri. Radhakisan s/o Supaji Tidke (Dead) through his legal heirs 1) Smt. Prayagbai
wd/o Radhakisan Tidke and others

Vs.

State of Maharashtra, Through the Collector, Buldana and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S. P. Pawar, Advocate for applicants/appellants.
Ms. T. H. Udeshi, AGP for respondent Nos.1 and 3.
Ms. Mallika Babulkar, Advocate h/f Mr. M. A. Kadu, Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 03/05/2023

1. This application is seeking permission to file the First Appeal through the legal heir.
2. It is apparent that after the decision of the reference bearing Land Acquisition Case No.204/2005, the applicant No.2 expired, therefore, the legal heirs are preferring the appeal.
3. Leave is granted to the legal heirs to prefer an appeal along with the applicant No.1.
4. Civil application is disposed of.

Civil Application (CAF) Stamp No.6199/2021

1. This application is seeking condonation of delay.

2. Learned AGP Ms. Udeshi, waives notice for respondent Nos.1 and 3.

3. Learned Advocate Ms. Babulkar, waives notice for respondent No.2.

4. As per the contention of the appellants/applicants they have preferred the reference bearing No.204/2005 before the Joint Civil Judge Senior Division, Buldana, however, the Reference Court has awarded the inadequate compensation, therefore, they preferred this appeal. However, delay of 2054 days is caused in preferring the appeal. The ground raised by the appellants/applicants is that the earlier counsel engaged by them has not guided them properly and the appellants/applicants are the poor agriculturists, not aware about the legal intricacies and, therefore, they could not prefer an appeal within time. The further ground raised by the appellants/applicants is that as they have not received the compensation amount, they could not arrange the amount to pay the Court fee stamp and, therefore, delay is caused.

5. The said application is strongly opposed by the learned Advocate Ms. Babulkar for respondent No.2 and learned AGP Ms. Udeshi, for respondent Nos. 1 and 3 on the ground that delay is not properly explained.

6. Heard both the sides. Perused the application. Considering the ground raised in the application and the well settled legal position is that liberal approach is to be taken while considering the

delay application to do the substantial justice. Here the ground is raised is that the appellants who have lost their land in compulsory acquisition, have no source of income, and therefore, they could not arrange the amount to pay the Court fee appears to be just and reasonable ground. However, considering the inordinate delay, the delay deserves to be condoned subject to the waiver of the interest on the compensation amount as well as waiver of the interest on the statutory amount which the appellants are entitled to receive, if they succeeds in the appeal.

7. Civil Application is disposed of.

8. Appeal be registered.

FIRST APPEAL STAMP NO.6197 OF 2021

1. Heard.

2. **Admit.**

3. Learned AGP Ms. Udeshi, waives notice for respondent Nos.1 and 3.

4. Learned Advocate Ms. Babulkar, waives notice for respondent No.2.

5. Call for record and proceedings.

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

7. Appeal be placed after filing of the paper book, its verification as per its own turn.

(URMILA JOSHI-PHALKE, J.)