

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

CIVIL APPLICATION (F) NO.3036 OF 2019

IN

FIRST APPEAL (ST) NO.7635 OF 2019

[Subhashrao S/o Madhavrao Thakare ..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 S. V. Ingole, Advocate for Applicant/Appellant.
Ms T. H. Udeshi, AGP for Respondent Nos.1 and 2.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 6th MARCH, 2023.

. By this application, the applicant/appellant is seeking condonation of delay of 535 days, which is caused in preferring the appeal.

2. As per the contention of the applicant, he is the original claimant. His land was acquired by the Government and Land Acquisition Officer has awarded inadequate compensation. Therefore, he preferred the reference petition before the 3rd Joint Civil Judge Senior Division, Amravati. The Reference Court has decided the reference petition bearing L.A.C. No.3 of 2014. As per the contention of the applicant, though Reference Court has enhanced the amount of compensation, but has not considered the fertility and potential of the acquired land and inadequate compensation is granted. The applicant is the agriculturist by profession and was facing financial crisis, as his land was acquired by the Government. Therefore, he could not approach to this Court immediately for preferring the appeal. Moreover, the

applicant is illiterate agriculturist and not aware about the legal provisions. Thus, there is just and reasonable cause for condonation of delay.

3. Learned Assistant Government Pleader raised strong objection on the ground that delay is not properly explained. Though respondent No.3 served with notice, none appeared.

4. I have heard Mr Ingole, learned Advocate for applicant and perused the application.

5. There is no dispute that the land of the applicant is acquired by the Government. As he was aggrieved and dissatisfied with the award of the Land Acquisition Officer, he preferred reference petition bearing L.A.C. No.3 of 2014. As per his contention, the Reference Court has not considered the evidence on record and granted inadequate compensation, and hence, this appeal for enhancement. It is well settled that while considering the delay condonation application, Court has to take the legal approach to do substantial justice. Preferring of the appeal is the valuable right of the claimant and it cannot be deprived on the technical ground.

6. In view of the reasons mentioned in the application, civil application is allowed. Delay of 535 days caused in preferring the appeal is condoned subject to the waiver of the interest, if applicant succeeds in enhancement of the compensation. Appeal be registered and numbered accordingly.

7. Civil Application No.3036 of 2019 is disposed of.

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8. **Admit.**
9. Call for Record and Proceedings.
10. Appellant to file paper-book within eight weeks after receipt of record and proceedings.
11. Place the matter before Court after paper-book is filed, its verification as per its own turn.

JUDGE

TAMBE