

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

CIVIL APPLICATION (CAF) NO. 4187/2019 IN
FIRST APPEAL ST. NO. 8214/2019

Sheikh Kadir Sheikh Harun Vs The State of Maharashtra 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 Rohit P. Masurkar, counsel for the applicant/appellant.

Mr M.K. Kadu, AGP for the respondent No. 1.

Mr Vinay Rathi, counsel h/f Mr P.B.Patil, counsel for the respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 24/03/2023.

1. The present application is for condonation of delay which is caused in filing the first appeal against the judgment and award passed by the learned reference Court, Buldhana.
2. As per the contention of the applicant, the applicant is a poor agriculturist and also an illiterate person. Due to the acquisition of the land, he lost his only source of income, his agricultural land which has been acquired by the Government under compulsory acquisition. As the claimant/applicant was not aware about the legal provisions and he could not arrange for the money to deposit the Court fee stamp. In view of that, a delay of 1978 days is caused in preferring the appeal.
3. It is submitted by learned counsel Mr R.P.Masurkar, that delay is not intentional. There is sufficient and reasonable ground for the condonation of delay.

4. The said application is strongly opposed by Mr M.A. Kadu, learned AGP for respondent No.1, and Mr. Vinay Rathi, counsel h/f Mr P.B. Patil, learned counsel for respondent No.2 on the ground that the delay is not properly explained and hence delay application deserves to be rejected.

5. Heard both the sides. Perused the application.

6. The only ground raised by the applicant is that he is a poor agriculturist and not aware about the legal provisions. Moreover, he could not arrange the money to pay the necessary Court fee stamp, while preferring the appeal. Hence, the delay of 1978 is caused in filing the appeal.

7. Mr R.P. Masurkar, learned counsel for the applicant has placed reliance in the case of Imrat Lal and others ..V/s.. Land Acquisition Collector and others, reported in (2014) 14 Supreme Court Cases 133. In view of the observations of the Hon'ble Apex Court as well as it is well settled that while considering the delay application a liberal approach is to be taken to do substantial justice.

8. In view of that delay of 1978 days is condoned, subject to the waiver of the interest from the date of the judgment and reference Court till 14/02/2020. The claimant is also not entitled to receive the interest on the statutory amount if he succeeds in the appeal.

Civil Application is disposed of.

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First appeal be registered.

2. Admit.
3. Call for record and proceedings.
4. Mr. M.A.Kadu, learned AGP waives service of notice on behalf of respondent no.1.
5. Mr. Vinay Rathi, counsel h/f Mr. P.B. Patil, learned counsel waives service of notice on behalf of respondent No.2.
6. Appellant to file private paper-book within a period of ten weeks after receipt of record and proceedings.
7. Appeal be placed before the Court for final hearing after the filing of private paper-book and its verification, as per its own turn.

JUDGE