

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

CIVIL APPLICATION (CAF) NO.115 OF 2021
IN
FIRST APPEAL STAMP NO.8294 OF 2019

Nurbi Ahmedbeg Mirza and another

Vs.

The State of Maharashtra through District Collector, Buldhana and another

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

Court's or Judge's orders

Mr. Rohit P. Masurkar, Advocate for appellants.

Mr. M. A. Kadu, AGP for respondent No.1.

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

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 23/03/2023

1. Present application is filed for condonation of delay which is caused to file an appeal for enhancement of the compensation.

2. As per contention of the applicants their land was acquired by the Government under the compulsory acquisition, however the Land Acquisition Officer has awarded the inadequate compensation, therefore he preferred Land Acquisition Case No.67/2009 which was decided by the Joint Civil Judge Senior Division, Buldhana by common Judgment dated 14.08.2013.

3. After decision of the Reference Court, this appeal is filed on 06.02.2019 along with the delay

condonation application. There is a delay of 1969 days to file an appeal. The reason mentioned in the application is that the applicants are the poor agriculturists and also illiterate persons residing in remote area. The only source of income was the agriculture land which has been acquired by the respondents without granting them proper compensation. As their land was acquired, they were not having source of income and their financial condition was weak, therefore they could not approach to this Court by filing the appeal. Another reason mentioned is that they do not have any knowledge of legal proceedings, and therefore delay is caused. There is sufficient and reasonable cause for condonation of delay.

4. Said application is strongly opposed by the learned Advocate Mr. Vinay Rathi holding for learned Advocate Mr. P. B. Patil, for the respondent No.2 on the ground that delay is intentional one and delay is not properly explained. It is further submitted that though application is filed on 06.02.2019 till 30.11.2021 the application was not circulated for issuance of notice and therefore, if this Court condone the delay the interest should not be awarded for the further delayed period as the matter was not circulated till 30.11.2021.

5. Heard both the sides. Perused the application.

6. The reasons mentioned in the application is that the applicants/claimants are the agriculturists and were not having any source of income, so also, they were not aware about the legal provisions, and therefore delay is caused. This aspect is already dealt by the Hon'ble Apex Court in the case of **Imrat Lal and others Vs. Land Acquisition Collector and others** reported in (2014) 14 SCC 133 wherein Hon'ble Apex Court held that:

“We can take judicial notice of the fact that the villagers in our country are by and large illiterate and are not conversant with the intricacies of law. They are usually guided by their co-villagers, who are familiar with the proceedings in the courts or the advocates with whom they get in touch for redressal of their grievance. Affidavits filed in support of the applications for condonation of delay are usually drafted by the advocates on the basis of half-baked information made available by the affected persons. Therefore, in the acquisition matters involving claim for award of just compensation, the court should adopt a liberal approach and either grant time to the party to file a better affidavit to explain delay or suo motu take cognizance of the fact that large number of other similarly situated persons who were affected by the determination of compensation by the Land Acquisition Officer or the Reference Court have been granted relief.”

7. In the light of the above observations and considering that the applicants/claimants are from the illiterate background and poor agriculturist, by accepting the reasons mentioned in the application which is

satisfactory one and to do the substantial justice. The delay caused is condoned subject to the waiver of the interest from the date of judgment till 30.11.2021 on the compensation amount as well as the interest on the statutory amounts, if applicants/claimants succeed in the appeal and get the enhanced amount of compensation.

8. Civil application is disposed of.

9. Appeal be registered.

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1. Heard.

2. **Admit.**

3. Learned AGP Mr. Kadu waives notice for respondent No.1.

4. Learned Advocate Mr. Patil 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.

(5)

24.caf.115.2021

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

(URMILA JOSHI-PHALKE, J.)

Sarkate