

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

CIVIL APPLICATION (CAF) NO. 4188/2019 IN
FIRST APPEAL STAMP NO. 8337/2019

Santosh S/O Bhikaji Surve

Vs

The State Of Maharashtra Through District Collector, Buldhana And Another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr R.P. Masurkar, advocate for the appellant.
 Mr K.L.Dharmadhikari, AGP for the Respondent No.1.
 Mr P.B. Patil, advocate for the respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 20/03/2023.

1. Heard.
2. Present application is filed by the applicant/original claimant for condonation of delay which is caused in preferring the appeal against the judgment and award passed by the Joint Civil Judge, Senior Division, Buldhana in Land Acquisition Case No. 110/2004.
3. As per the contention of the original claimant that Reference Court has not considered the evidence on record and awarded inadequate compensation. Being aggrieved and dissatisfied with the same, present appeal is preferred. However, as the appellant's land was acquired by the Government and he has no source of income therefore, he could not arrange the

amount for depositing the Court fee and therefore, delay of 1995 days is caused in preferring the appeal.

4. It is submitted that on behalf of the applicant that the only source of income was the acquired land and after its acquisition, there was absolutely no income source for the applicant. Considering the reason, delay be condoned and the appellant be permitted to cause the litigation on merits.

5. The said application is strongly opposed by the learned advocate Mr P.B. Patil, for the respondent No.2 on the ground that the delay is not properly explained. He further invited the attention of this Court towards the fact that, even the applicant is not diligent after filing of this application to serve the respondents. Respondents have to pay the interest on the compensation amount and the respondents shall not be punished for the fault of the applicant, who is not diligent in pursuing the application and issuing the notices.

6. Learned advocate further submitted that it is the public money which is to be utilized for granting the compensation to the claimant. Therefore, he submitted that, considering all these aspects, the application be rejected and alternatively, if this Court allows the application that interest part is to be waived till service of the respondents.

7. Heard both the sides. Perused the application.

8. The only reason mention in the application is that, the applicant, whose land is acquired by the Government compulsorily and he has no source of income. The learned

Reference Court granting to the applicant awarded the inadequate compensation. Considering the reason mentioned in the application, there appears to be sufficient and satisfactory reasons.

9. Moreover, the Hon'ble Apex Court *Imrat Lal and others ..V/s.. Land Acquisition Collector and others*, reported in *(2014) 14 Supreme Court Cases 133*, that a judicial notice of 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 grievances. 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.

10. As noticed above and in view of the observations of the Hon'ble Apex Court, the delay of 1995 days deserves to be condoned, subject to the waiver of the interest for the delayed period as well as the claimants are not entitled to receive the

interest till the notice is served on the respondents, as the claimant was not diligent in pursuing the application.

11. The claimants are not entitled to receive the interest on compensation amount as well as on statutory benefits for 1995 days which is period of delay as well as till 14/02/2020 i.e. returnable date of the notice of the respondents.

12. For the reasons stated in the application, delay of 1995 is condoned, Subject to the waiver of the interest for delayed period till 14/02/2020 on the compensation amount as well as on the statutory benefits amount.

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Appeal be registered

2. **Admit.**

3. Mr K.L.Dharmadhikari, learned AGP waives service of notice for the Respondent No.1.

4. Mr P.B.Patil, learned advocate waives service of notice on behalf of respondent No.2.

5. Call for record and proceedings.

6. Appellant to file private paper-book within a period of eight weeks after receipt of record and proceedings.

7. Appeal be placed before the Court after filing of private paper-book and its verification, as per its own turn.

JUDGE