

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

**CIVIL APPLICATION (CAF) NO.1250 OF 2023**

**IN**  
**FIRST APPEAL STAMP NO.8317 OF 2023**

Namdeo Mahadeo Gajbhiye Dead through legal representatives

1. Prakash Namdeo Gajbhiye and others

Vs.

The State of Maharashtra through its District Collector, Yavatmal and others

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

Court's or Judge's orders

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Mr. Niranjana Jadhav, Advocate h/f Mr. A. A. Mankar, Advocate for appellants.

Ms. T. H. Udeshi, AGP for respondent Nos.1 and 2.

Ms. Mallika Babhulkar, Advocate h/f Mr. M. A. Kadu, Advocate for respondent No.3.

**CORAM : URMILA JOSHI-PHALKE, J.**

**DATED : 27/04/2023**

1. This application is for condonation of delay which is caused in preferring the appeal against the Judgment and Award passed by the District Judge -1 Darwha in Land Acquisition Case No.1955/2003.

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

3. Learned Advocate Ms. Mallika Babhulkar waives notice for respondent No.3.

4. It is contended by the appellants that they are the poor agriculturists and were not aware about the legal intricacies therefore, they could not contact their counsel. Moreover, they have not received compensation amount though award is passed in their favour and, therefore they were facing financial constraints which is

the cause they could not file an appeal within time.

5. The said application is strongly opposed by the learned Advocate Ms. Mallika Babhulkar for the respondent No.3 on the ground that the delay is not properly explained.

6. Learned AGP endorsed the same contention.

7. Perused the application. It is apparent that the claimants whose land is already acquired by the Government under the compulsory acquisition though award was passed in their favour, they could not receive the compensation amount till 28.10.2021. The another ground raised that the appellants are the illiterate poor agriculturist, not aware about the legal intricacies and, therefore, could not file the appeal. It is well settled that while considering the delay condonation application liberal approach is to be taken to do the substantial justice. The appellants have claimed the compensation under the beneficial legislation and they cannot be deprived from getting the compensation or claiming the compensation at enhanced rate on account of the technical reasons. In view of that, civil application deserves to be allowed, subject to the waiving of the interest for the delayed period. Delay is condoned.

8. In view of that, civil application is disposed of.

9. Appeal be registered.

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1. Heard.
2. **Admit.**
3. Learned AGP Ms. Udeshi, waives notice for respondent Nos.1 and 2.
4. Ms. Mallika Babhulkar, waives notice for respondent Nos.3.
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 before the court after filing of the paper book, its verification, as per its own turn.

**(URMILA JOSHI-PHALKE, J.)**

Sarkate