

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

CIVIL APPLICATION (F) NO.2576 OF 2021 IN
FIRST APPEAL (ST) NO.8925 OF 2021

[Narhari W/o Rama Duphare (Dead) thr LRs ..V/s.. 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 C. B. Dharmadhikari, Advocate for Appellants.

Mr K. L. Dharmadhikari, AGP for Respondent Nos.1 and 3.

Ms M. Babhulkar, Adv. h/f Mr M. A. Kadu, Advocate for Respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 4th MAY, 2023.

1. By this application, the applicants - appellants are seeking condonation of delay, which is caused in preferring the appeal.

2. The ground raised by the appellants for the condonation of delay is that they are the poor agriculturist and not aware about the legal intricacies, therefore they could not approach to their Advocate. The further ground raised is that their only source of income land was acquired by the Government under the compulsory acquisition and they lost their source of income. Therefore, they could not arrange the amount to pay the Court fee stamp, and hence, they could not prefer an appeal within the time.

3. The said application is strongly opposed by learned Advocate Ms Babhulkar holding for Mr Kadu for respondent No.2 and learned Assistant Government Pleader for respondent Nos.1 and 3 on the ground that the delay is not properly explained.

4. Heard learned Advocate Mr Dharmadhikari for appellants. He reiterated the contentions and submitted that there is sufficient and reasonable cause for condonation of delay.

5. Perused the application and objection raised by the respondents, it is apparent from the record that the appellants are the poor agriculturist and illiterate persons. The reason mentioned in the application is that their only source of income land is acquired by the Government under the compulsory acquisition and they could not arrange the amount to pay the Court fee stamp, and therefore, the delay is caused appears to be just and reasonable cause. Moreover, it is well settled that while considering the delay application, liberal approach is to be adopted to do the substantial justice. The appellants are claiming compensation under the beneficial legislation and they cannot be deprived from raising their rights for the technical reasons.

6. In view of the above, the application is allowed and the delay of 50 days is hereby condoned. Appeal be registered and numbered accordingly.

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7. Heard.

8. **Admit.**

9. Call for Record and Proceedings.

10. Mr Dharmadhikari, learned AGP waives notice for respondent Nos.1 and 3. Learned Advocate Ms Babhulkar holding for Mr Kadu waives notice for respondent No.2.

11. Appellants to file the private paper-book within ten weeks after receipt of record and proceedings.

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