

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

CAF NO.1739/20222 AND FA ST.NO.9957/2020

Maniram Pandurang Gandhare, LR's and anr

..VS..

State of Mah., thr.its Collector, Nagpur and ors

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

Court's or Judge's Order

.....
Shri R.M.Pande, Counsel for Applicants.

Ms T.H.Udeshi, AGP for NA Nos.1 & 2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 28/02/2023

1. Leave to correct name of respondent No.4.
2. By this application, applicants seek condonation of delay caused in filing the instant appeal against judgment and award dated 10.1.2017 passed by learned Ad hoc District Judge-5, Nagpur in Land Acquisition Reference No.192/2008. Delay is of 1070 days.
3. Learned counsel Shri R.M.Pande for applicants submits that cause of action for filing the appeal initially arose on 10.1.2017 when learned Judge below passed the judgment and award impugned. Thus, the delay is caused in filing the present appeal. After witness was examined on behalf of applicants, applicants were not made aware of further dates and fact of pronouncement of the award. The applicants were not aware about passing of the award till they received notice about deposit of the enhanced amount with the office of learned Judge below and, thereafter, immediately in 2nd week of January 2020 applicants and respondent Nos.5 to 7 moved applications for disbursement of amount and they also applied for certified copy of the award. After obtaining the certified copy, they came to know that inadequate compensation is awarded to them and that is the reason for delay in preferring the appeal. It is contention of applicants that just and reasonable cause is mentioned for condonation of delay. The delay is not intentional one. Hence, the delay be condoned.

4. Learned Assistant Government Pleader raises objection for condonation of delay on the ground that the delay is not properly explained.
5. None appears for respondent No.3 to 7 though Notices are served upon them.
6. Learned counsel Shri R.M.Pande for applicants reiterates contentions and submits that sufficient and reasonable cause is mentioned in the application.
7. Heard and perused the application.
8. It is true that for mistake on the part of counsel litigants should not suffer. It is well settled law that while considering applications for condonation of delay liberal approach is required to be taken to do substantial justice.
9. For reasons stated in the application, the application is allowed. The delay stands condoned, however the same shall be subject to waiver of interest on the compensation amount as well as on the statutory benefits.
10. Office to register the appeal.
11. The first appeal is **admitted**. Record and proceedings be called for. Paper book be filed within a period of ten weeks from today. After receipt of record and proceedings, the appeal be placed for its final hearing as per its turn.
12. Learned Assistant Government Pleader Ms T.H.Udeshi waives service for respondent Nos.1 and 2.
13. The application is **disposed** of.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!

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