

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

CIVIL APPLICATION (CAF) NO. 2335/2021 IN
FIRST APPEAL ST. NO. 10431/2020

Sudarshan S/O Pandurang Borchate Vs The State Of Maharashtra Through
Collector, Yavatmal And Others

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

Court's or Judge's Order

Mr S.V. Ingole, advocate for the applicant/appellant.
Ms T.H. Udeshi, AGP for the respondent No.1 and 2.
Ms Mallika Babhulkar, advocate h/f Mr M.A. Kadu, advocate for the
respondent No.3.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 21/04/2023.

1. Heard.
2. The present application is filed for seeking condonation of delay which is caused in preferring the appeal.
3. Appellant has filed this appeal for enhancement of the compensation, however, a delay of 1126 days is caused in preferring the appeal.
4. As per the contention of the appellant, the appellant is a poor agriculturist and his land was acquired under compulsory acquisition after acquisition inadequate amount of compensation was awarded to him. Therefore, he preferred the reference but the reference Court has also not considered the evidence and awarded inadequate compensation. After awarding the compensation also, he

has not received the amount of compensation, therefore, he could not manage the amount to pay the Court fee stamp and therefore, a delay of 1126 days is caused in preferring the appeal.

5. The said application is strongly opposed by the learned AGP for respondent Nos. 1 and 2 as well as learned counsel Mallika Babhulkar holding for Mr. M.A. Kadu, for respondent No.3 on the ground of delay is not properly explained. It is further pointed out by the learned AGP that the delay application was filed in October-2020. The endorsement of the Registry shows that it was received on 12/07/2020. Thereafter, no efforts are taken for issuance of notice by placing the matter before the Court. She submitted that the respondent has to pay the interest at the rate of Rs. 15% till the realization of the amount.

6. Considering the public money is involved, though the delay is not properly explained and if this Court comes to the conclusion that delay to be condoned to do substantial justice, the interest amount is not to be paid to the claimants.

7. Heard both sides. Perused the application.

8. The reason mentioned in the application appears to be a reasonable one that he could not prefer an appeal as the amount of compensation was not disbursed to him. At the same time, it is to be considered that the respondent has to pay the interest at the rate of Rs. 15% till the realization of

the amount. It is apparent that though the application is filed in October-22 but it was not circulated and not placed before the Court and no efforts are taken for issuance of notice.

9. Considering the same, the delay is to be condoned, subject to the waiver of the interest from the date of the judgment of the learned trial Court dated 03/05/2017 to 21/04/2023

Civil application is **disposed of**.

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The Appeal be registered.

2. **Admit.**

3. Ms T.H. Udeshi, learned AGP waives service of notice on behalf of respondent Nos. 1 and 2.

4. Ms Mallika Babhulkar, learned advocate holding for Mr M.A. Kadu, learned advocate waives service of notice on behalf of Respondent No.3,.

5. Call for record and proceedings.

6. Appellant to file private paper-book within a period of ten 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