

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

CIVIL APPLICATION (CAF) NO. 14/2020 IN FIRST APPEAL
STAMP NO. 11608/2019

Chandrakalabai Deorao Rathod (dead) through her Lrs V/s The State of Maharashtra, thr. 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, counsel h/f Mr D.G. Patil, counsel for the appellants /applicants.

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

Mr A.M. Kukday, counsel for the respondent No.3.

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

1. This application is filed by the appellants for condonation of delay which is caused in preferring the appeal for enhancement of the compensation.

2. As per the contention of the appellants, they are the land owners, their land was acquired by the respondents. After the acquisition of the land, they lost their earning source. Moreover, they were not aware about the legal provisions and therefore, they could not approach to the counsel to preferring the appeal. Now, they have received the compensation amount and therefore, they approached to this Court for preferring the appeal but delay of 676 days is caused. Delay is not an intentional one. There are sufficient and reasonable caused for the condonation of delay.

3. The said application is opposed by the learned counsel Mr A.M. Kukday on the ground that, the delay is not properly explained.

4. Heard both the sides. Perused the application.

5. The applicants have filed the reference petition before the learned trial Court on account of the acquisition of land. The learned trial Court has awarded the compensation amount. As per the contention of the applicants, the learned trial Court has awarded an inadequate amount of compensation without considering the evidence on record. Therefore, they have filed the present appeal for enhancement of the compensation. However, delay of 676 days is caused.

6. It is further submitted that, the applicants were not aware about the legal implications regarding the filing of the first appeal and it is also one of the reasons in the said appeal.

7. In view of the reasons mentioned in the application and in view of the well-settled legal position while considering the delay application, a liberal approach is to be taken to do substantial justice. The applicants are claiming compensation under the beneficial legislation under the provision of beneficial legislation, they cannot be deprived of filing the appeal for technical reasons. They are permitted to litigate their cause on merits.

8. In view of that, civil application deserves to be allowed. Delay is condoned subject to the waiver of the interest, if applicants succeeds in getting the enhancement of the compensation.

Civil application (CAF) No.14/2020 is disposed of.

JUDGE