

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

CIVIL APPLICATION (CAF) NO.55 OF 2023
IN
FIRST APPEAL STAMP NO.11111 OF 2022

Prakash s/o Nathudeo Dhapke
Vs.
The Collector, Nagpur

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

Court's or Judge's orders

Ms. Shruti Najbile, Advocate h/f Mr. C. R. Najbile, Advocate for applicant.
Mr. K. L. Dharmadhikari, AGP for non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 17/03/2023

1. This application is for condonation of delay of 1856 days in preferring the appeal.

2. As per the contention of the applicant, he is poor agriculturist whose land was acquired by the Government, however Land Acquisition Officer has awarded the inadequate compensation. He has preferred the reference before the Reference Court, but the Reference Court has also not considered the material on record and awarded the inadequate compensation. Therefore, present appeal is for enhancement of the compensation.

3. It is further contention of the applicant that as the applicant is illiterate poor villager was not aware

about the legal provisions, and therefore initially, he has not approached to the counsel for preferring the appeal, therefore, delay is caused. There is reasonable and justifiable reasons for condonation of delay.

4. Said application is strongly opposed by the learned AGP for the non-applicant on the ground that delay is not properly explained.

5. Heard both the sides. Perused the application.

6. Learned Advocate for the applicant place reliance on **Imrat Lal and others Vs. Land Acquisition Collector and others** reported in **2014 (9) SCALE 446** wherein Hon'ble Apex Court held that:

“We can take judicial notice of the fact that the villagers in our country are by and large illiterate and are not conversant with the intricacies of law. They are usually guided by their co-villagers, who are familiar with the proceedings in the Courts or the advocates with whom they get in touch for redressal of their grievance. Affidavits filed in support of the applications for condonation of delay are usually drafted by the advocates on the basis of half baked information made available by the affected persons. Therefore, in the acquisition matters involving claim for award of just compensation, the Court should adopt a liberal approach and either grant time to the party to file a better affidavit to explain delay or suo motu take cognizance of the

fact that large number of other similarly situated persons who were affected by the determination of compensation by the Land Acquisition Officer or the Reference Court have been granted relief.”

7. As held by the Hon’ble Apex Court in catena of decision that while considering the delay application the liberal approach is to be taken to do the substantial justice and parties to be allowed to litigate the cause on merits.

8. In view of that, application is allowed subject to the waiver of the interest for the delayed period, if appellant succeeds in the appeal in enhancing the compensation.

9. Civil application is disposed of.

10. Appeal be registered.

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1. Heard.

2. **Admit.**

3. Learned AGP Mr. Dharmadhikari, waives notice for respondent.

4. Call for record and proceeding.

(4)

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5. Appellant to file paper book within ten weeks, after receipt of the record and proceeding.

6. Place the matter for final hearing after paper book is filed, its verification, as per its own turn.

(URMILA JOSHI-PHALKE, J.)

Sarkate