

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

CIVIL APPLICATION (CAF) NO. 2912/2022 F.A. ST. NO. 11275/2022

Shrawan S/O Vithoba Hattipaye (Dead) Throgh Lrs. Ashok S/O Shrawan Hattipaye

Vs

The State Of Maha. Thr. Special Land Acquisition Officer (General), Nagpur And Another

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

Court's or Judge's Order

Mr D.U. Thakare, advocate for the applicant/appellant.

Ms T.H.Udeshi, AGP for the respondent No.1.

Mr T.M.Zaheer, advocate for the respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 12/04/2023.

1. The present application is for seeking condonation of delay of 3604 days which is caused in preferring the appeal.

2. Present appeal is preferred by the applicant for the enhancement of the compensation. As per the contention of the applicant, he is an uneducated and poor farmer, and layman having no knowledge of the law. He had engaged the counsel to prosecute the reference. The applicant had given his evidence, however, it was not informed to him about the decision of the land reference, and therefore, he was not having any knowledge about the decision of the land reference. Therefore, he could not file the appeal within time. As

per the contention of the applicant, there is just and reasonable cause for the condonation of delay.

3. The said application is strongly opposed by learned AGP Ms T.H. Udeshi, for respondent No.1 and Mr T.M. Zaheer for respondent No.2 on the ground that delay is not properly explained.

4. Heard Mr D.U. Thakare, learned advocate for the applicant, he submitted that an additional affidavit explaining the delay is already filed. The applicant could not prefer the appeal as he was not having knowledge about the decision of the reference as it was not informed to him by his counsel. Thus, there is just and reasonable cause for the condonation of delay.

5. In support of his contention, he placed reliance *on Imrat Lal and others .V/s.. Land Acquisition Collector and others, reported in 2014 (9) SCALE 446*, wherein in para-13 it is observed by the Hon'ble Apex Court that we can take judicial notice of the fact that villagers in our country are by and large illiterate and are not conversant with the intricacies of the 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 a claim for award of just compensation, the Court should adopt a liberal approach and either grant time to the party to file a written affidavit to explain delay or suo motu take cognizance of the fact that the 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.

6. In the light of the above observation of the Hon'ble Apex Court, in the present case also, the applicant is uneducated and illiterate agriculturist, he was not informed by his counsel and therefore, he could not file the appeal within time. The reasons mentioned appear to be just and reasonable. However, considering the inordinate delay, the delay deserves to be condoned, subject to the waiver of the interest of 3604 days.

In view of above, civil application is disposed of.

First Appeal St. No. 11275/2022

1. First Appeal be registered.
2. **Admit**
3. Call for record and proceedings.
4. Ms T.H. Udeshi, learned AGP waives service of notice on behalf of respondent No.1.

5. Mr T.M. Zaheer, learned advocate waives service of notice on behalf of respondent No.2.

6. Appellant to file private paper-book within a period of eight weeks after receipt of the record and proceedings.

7. Appeal be placed before the Court after filing of private paper-book, as per its own turn.

JUDGE