

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

**CIVIL APPLICATION NO.475 OF 2023 IN
MISC. CIVIL APPLICATION (ST.) NO.12014 OF 2021
IN
FIRST APPEAL NO.552 OF 1994**

(Sarubai Champat Bobde (dead) thr. L.R's and ors. Vs. State of Maharashtra and anr.)

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

Court's or Judge's Order

Ms K. Shekhar, Advocate h/f Shri R.S. Kurekar, Advocate for the applicants.
Shri M.A. Kadu, AGP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- APRIL 5, 2023.

This application is for condonation of delay of 3845 days, which is caused in preferring the review application in respect of the judgment and order dated 05.08.2009 passed in First Appeal No.552 of 1994.

2. It is submitted by Ms Shekhar, learned Advocate for applicant that due to the Covid Pandemic Situation, the application is not filed within time, and therefore, the delay of 3845 days is caused in preferring the review application. The review application is filed on the ground that in connected matters, the other land holders received the compensation at the rate of Rs.6,50,000/- per hectare, whereas present applicant received the compensation at the rate of Rs.70,000/- per hectare. This applicant is also entitled to receive the compensation at the same rate. Due to the technical reasons of limitation, the applicant cannot be deprived of

from getting the compensation at the same rate, and therefore, this review application is filed.

3. Mr Kadu, learned AGP raised strong objection that delay is not properly explained and the ground of Covid is not available to the applicant.

4. It is observed by the Hon'ble Apex Court in *Imrat Lal and others ..V/s.. Land Acquisition Collector and others, reported in (2014) 14 Supreme Court Cases 133*, that a judicial notice of 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

5. In view of the observations of the Hon'ble Apex Court, in the present case also, other land holders

received the compensation at the higher rate, whether claimants are entitled to receive the compensation by the similar rate or not is the matter of evidence. At this stage, the claimants cannot be deprived of from the opportunity raising the issue that they are also receiving the compensation at similar rate.

6. In view of the above, the application is allowed. Delay of 3845 days is condoned subject to the waiver of the interest, if the claimant succeeds in the review application and gets the enhancement of the compensation amount. The claimant is not entitled to claim the interest on the statutory benefits also. Review application be registered.

7. The applicant to add the VIDC as a party to review application. Amendment be carried out within one week. Place the matter before the Court after three weeks.

8. Civil Application No.475 of 2023 is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*