

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

CAF NO.1460/2019 IN FA ST.NO.15389/2018

Devrao s/o Maroti Jamdharkar

..VS..

The State of Mah., thr.Collector, Yavatmal and ors

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

Court's or Judge's Order

.....
Shri D.G.Patil, Counsel for the Applicant.
Ms Mallika Babhulkar, Counsel for NA No.3.
Mrs.Shamsi Haider, AGP for NA Nos.1 and 2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 22/02/2023

1. The present application is filed by the claimant for condonation of delay caused in filing the appeal against judgment and award passed by learned Joint Civil Judge Senior Division at Darwha, district Yavatmal. The appeal is filed for enhancement of compensation.

2. As per contention of the claimant, he has not received adequate compensation from the acquiring body. His land is acquired by the Government. He is illiterate person and from small village and was not aware about legal provisions and, therefore, he could not approach counsel for filing the appeal. Subsequently, he is informed by counsel that he can challenge the award and, therefore, he approached counsel and, therefore, delay 812 days is caused in preferring the appeal. He shown his willingness to waive interest for the delayed period.

3. The application is strongly opposed by learned counsel Ms Mallika Babhulkar for non-applicant No.3 and learned Assistant Government Pleader Mrs.Shamsi Haider for non-applicant Nos.1 and 2 on the ground that the delay is not properly explained and the same is not justifiable for condonation of delay.

4. Having heard learned counsel appearing for parties and perused the application, I find that there is no dispute that the land of the applicant is acquired by the Government. It is also not in dispute that the applicant is illiterate person and is from small village. The fact that villagers from the small village, who were unaware about legal provisions, after getting suggestions and advice from other villagers, used to approach counsel and, therefore, delay used to be caused in preferring appeals. This fact is also observed by the Honourable Apex Court in catena of decisions.

5. In view of reasons mentioned in the application that the applicant is illiterate person and from small village and was not aware about legal provisions and, therefore, he could not approach counsel for filing the appeal, the application can be allowed.

6. It is a well settled principle of law that while considering applications for delay, liberal approach is to be taken.

7. The application is **allowed**. The delay is condoned,

however the same shall be subject to waiver of interest on the delayed period. Office to register the first appeal. The record and proceeding be called for. Paper book be filed within a period of eight weeks from today. After filing of the paper book, the appeal be placed for its final hearing.

8. The application is **disposed** of.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!

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