

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

CIVIL APPLICATION (CAF) NO. 760/2023 IN
FIRST APPEAL ST. NO. 14820/2021

Shri Rambhau S/o Vyankatrao Nistane
Vs

State Of Maharashtra Through Its Collector, Amravati 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 Krishna Patel, counsel h/f Mr S.S. Shingane, counsel for the applicant/
appellant.

Mr K.L.Dharmadhikari, AGP for the respondent Nos. 1 to 3.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 24/03/2023.

1. Heard.
2. Present application is filed for seeking condonation of delay in preferring the First Appeal.
3. As per the contention of the applicant, he was the owner of the land Survey No. 5/3 D admeasuring 1.51 HR and Survey No. 6/3 admeasuring 2 H 3R. The land was situated at Village Mouza Shidodi, Dist. Amravati, which was acquired by the Government. The applicant has received compensation amount under protest. Being aggrieved with the said award, the claimant has preferred the reference which was partly allowed.
4. As per the contention of the applicant that the reference Court had not considered the potential and fertility of the land and awarded inadequate compensation. Hence,

this appeal is for the enhancement of the compensation. However, the applicant was an illiterate person and was not aware about the legal provision. Moreover, due to the acquisition of land, he was facing financial crises and could not arrange the amount for paying the Court fee. Therefore, the delay is caused. There is just and reasonable cause in condonation of delay and prayed for condonation of delay.

5. The said application is strongly opposed by the learned AGP on the ground that the delay is not properly explained and the delay is intentional one. Hence, the application deserves to be rejected.

6. Ms Krishna Patel, counsel h/f Mr S.S.Shingane, counsel for the applicant, reiterate the contention and submitted that considering the applicant was illiterate and was not aware about the legal provisions. He could not approach the Court for condonation of delay. In support of her contention, she placed reliance of Imrat Lal and others ..V/s.. Land Acquisition Collector and others, reported in (2014) 14 Supreme Court Cases 133. In view of the reasons mentioned in the application and considering the applicant is an illiterate person and not aware about the legal provisions. The application is not filed within time. It is well settled that when considering the delay application, the liberal approach is to be taken to do substantial justice. In view of that and considering the inordinate delay, delay of 3704 days is condoned, subject to the waiver of the interest

on the compensation amount as well as waiver of the interest on the statutory amount of compensation, if the appellant succeeds in the appeal in enhancing the compensation.

Civil application is disposed of.

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First appeal be registered.

2. Issue notice to respondent Nos. 3 and 4.
3. Mr K.L.Dharmadhikari, learned AGP waives service of notice on behalf of respondent Nos. 1 and 2.
4. Place the matter after the service of respondent Nos. 3 and 4.

JUDGE