

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

CIVIL APPLICATION (CAF) NO.4382 OF 2019
IN
FIRST APPEAL STAMP NO.19976 OF 2012

Dilip Supaji Kale and another
Vs.
Special Land Acquisition Officer and another

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

Court's or Judge's orders

Mr. J. B. Gandhi, Advocate for the appellants.
Ms. T. Udeshi, AGP for respondent No.1.
Ms. Ashwini Athalye, Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 19/04/2023

1. The present appeal is preferred by the original claimants for enhancement of the compensation, however, delay of 1184 days is caused in preferring the appeal.

2. As per contention of the appellants, their land was already acquired by the Government and they become landless. Now they have no source of income for their livelihood. The Reference Court has awarded the inadequate compensation and they were about to prefer an appeal, but due to the financial constrains they could not file the appeal and, therefore, delay of 1184 days is caused in preferring the appeal. The delay is of just and reasonable caused. In view of that, delay be condoned.

3. The said application is strongly opposed by learned Advocate Ms. Athalye for respondent No.2 on the ground that delay is not properly explained.

4. Learned AGP Ms. Udeshi, for respondent No.1 pointed that applicants were not at all diligent after filing of this application because this application was also dismissed again it was restored, in that circumstances delay is condoned. The applicants are not entitled to claim interest for 1184 days plus the further days till passing of this order.

5. Heard both the sides. Perused the application. The application for delay condonation is filed on 19.04.2012. The delay of 1184 days is caused though it appears that the reason mentioned in the application is sufficient and satisfactory, however, it appears that the applicants were not at all diligent in proceeding with the said application and get the delay condoned. In view that delay deserves to be condoned subject to the waiver of the interest from filing of the application from passing of this order on this application i.e. 19.04.2023. Thus, to do the substantial justice, delay is condoned subject to the waiver of the interest from passing of the judgment by the Reference Court till 19.04.2023.

6. Civil Application is disposed of.

7. Appeal be registered.

FIRST APPEAL STAMP NO.19976 OF 2012

1. Heard.
2. **Admit.**
3. Learned AGP Ms. Udeshi, waives for respondent No.1.
4. Learned Advocate Ms. Athalye waives notice for respondent No.2.
5. Call for record and proceeding.
6. Appellants to file paper book within ten weeks, after receipt of the record and proceeding.
7. Appeal be placed before the Court after filing of the paper book, its verification, as per its own turn.

(URMILA JOSHI-PHALKE, J.)

Sarkate