

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

CIVIL APPLICATION (F) NO.248 OF 2023

IN

FIRST APPEAL (ST) NO.17518 OF 2022

[Ramrao Shamrao Sanap and Ors. ..V/s.. Executive Engineer and Ors.]

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

Court's or Judge's order

Mr R. N. Ghuge, Advocate for Appellants.

Ms T. H. Udeshi, AGP for Respondent Nos.2 and 3.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 25th APRIL, 2023.

. Heard.

2. Mr A. M. Kukday, learned Advocate waives notice for respondent No.1. Learned Assistant Government Pleader has already waived notice for respondent Nos.2 and 3.

3. The application is for condonation of delay of 1234 days, which is caused in preferring the appeal.

4. The ground raised for the condonation of delay is that the appellants approached to the Advocate for filing the present appeal, but they were informed that appellants have to pay the necessary Court fee stamp for preferring the appeal. As the lands of the appellants are already acquired by the Authorities, they had no source of income and they were facing financial constraints, therefore they could not approach alongwith Court fee and could not prefer the appeal, and therefore, delay is caused. The further ground raised by the appellants is that they are poor agriculturist not aware about the legal intricacies including the limitation period, and therefore, they could file the appeal within time.

5. The said application is strongly opposed by the learned Advocate Mr Kukday for respondent No.1 on the ground that the delay is not properly explained. Learned AGP endorsed the same contention.

6. Heard both the sides. Perused the application. It is apparent that the reason mentioned in the application is that as they could not prepare to pay the Court fee stamp, due to financial constraints, they could not approach to the Advocate to prefer an appeal. The ground further raised is that as the only source of income from the lands, which were acquired by the Authorities, they could not manage the amount to pay the Court fee stamp, and therefore, delay is caused. Admittedly the claimants have claimed the compensation under the beneficial legislation. Merely, on the technical reasons, they can not be deprived from the litigation cause on merits. It is well settled that while considering the delay application, liberal approach is to be taken to do the substantial justice. However, considering the inordinate delay caused, it deserves to be condoned subject to the waiver of the interest.

7. In view of the above, application is allowed and delay of 1234 days is hereby condoned. Appeal be registered and numbered accordingly.

8. The civil application is disposed of.

FIRST APPEAL (ST) NO.17518 OF 2022

9. Heard.

10. **Admit.**

11. Call for Record and Proceedings.
12. Mr Kukday, learned Advocate waives notice for respondent No.1 and learned AGP waives notice for respondent Nos.2 and 3.
13. Appellants to file the private paper-book within ten weeks, after receipt of record and proceedings.
14. Appeal be placed before the Court for final hearing, after the paper book is filed and its verification, as per its own turn.

JUDGE.