

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

CIVIL APPLICATION (F) NO. 172 OF 2023
IN
FIRST APPEAL (STAMP) NO. 20407 OF 2022

Smt. Nirmala w/o Manikrao Mahakulkar

vs.

State of Maharashtra and others

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

Court's or Judge's Orders.

Smt. Rajkumari Rai, Advocate for applicant.
Smt. Trupti Udeshi, AGP for respondent Nos.1 and 2.
Shri. T. M. Zaheer, Advocate for respondent Nos.3.

CORAM : URMILA JOSHI-PHALKE J.

DATE : 03/04/2023

This is an application seeking
condonation of delay of 3904 days, which is caused
in preferring the first appeal.

2. As per the contention of the appellant, her
land was acquired by the Government, however, very
meager amount of compensation was awarded to her.
Therefore, she had filed the reference petition
bearing No.51 of 1999 before the 2nd Joint Civil Judge
Senior Division, Nagpur. The reference Court has
awarded inadequate compensation, hence, the

present appeal is preferred for enhancement of compensation.

3. As per the contention of the appellant that in connected matters the other land owners received the compensation @ Rs.2,50,000/- per hectare for irrigated land. Therefore, the appellant is also entitled to receive compensation amount at the same rate. Due to her financial constrain, she could not file the appeal within time, as her only source of income was acquired by the Government. Therefore, there is delay of 3904 days is caused in filing the present appeal.

4. Said delay application is strongly opposed by Smt.Trupti Udeshi, learned AGP for respondent Nos.1 and 2 and learned Advocate Shri Tariq Zaheer for respondent No.3 on the ground that delay is not properly explained.

5. Perused the application and submissions made by both the sides. The reason mentioned in the application that other claimants have received the compensation @Rs.2,50,000/- for irrigated land. She can not be deprived of claiming the compensation at the same rate due to technical

reason. Moreover, liberal approach is to be taken to do the substantial justice.

6. In view of the above, the application is allowed. The delay of 3904 days is hereby condoned, subject to waiver of interest on the compensation amount for the delayed period.

7. Application is disposed of in above terms.

8. Appeal be registered.

FIRST APPEAL NO. OF 2023

Heard.

2. **Admit.**

3. Smt.Trupti Udeshi, Shri.Tariq Zaheer, learned Advocate waives notice on behalf of respondent No.3.

4. Call for Record and Proceedings.

5. Paper book is dispensed with.

[URMILA JOSHI-PHALKE J.]