

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

CIVIL APPLICATION (CAF) NO. 603/2023 IN
FIRST APPEAL ST. NO. 20719/2022

Yamuna Dhanraj Khandare
Vs
The State Of Maharashtra Through The Collector, Yavatmal 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 S.C. Bhalerao, Advocate for the appellant/applicant.
Ms Shamshi Haider, AGP for the respondent Nos. 1 and 2.
Ms Mallika, Advocate h/f Mr M.A. Kadu, Advocate for respondent Nos. 3 and 4.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 28/02/2023.

1. Heard.
2. Issue notice to the respondents.
3. Ms Shamshi Haider, learned AGP waives service of notice on behalf of respondent Nos. 1 and 2.
4. Ms Mallika, advocate h/f Mr M.A. Kadu, learned advocate waives service of notice on behalf of respondent Nos. 3 and 4.
5. By preferring this present application, the applicant is seeking condonation of delay, on the ground that the applicant has applied the certified copies after he got knowledge on award on 18/01/2019 and he received the copies on 27/01/2022. Applicant being poor agriculturist and rustic villager was not aware about the legal provisions and therefore, he could not approach to the counsels to

prefer an appeal. Subsequently, there was Covid pandemic situation, therefore, he could not approach to the counsel. Due to the said reason, delay of 197 days in preferring the first appeal.

6. It is contended by the applicant, that the reason mentioned in the application is just and sufficient and hence delay be condoned.

7. Ms Shamshi Haider, learned AGP has raised strong objection on the ground that, delay is not properly explained. Alternatively, she submitted that if the Court allows the application then it should be allowed on waiver of the interest on the compensation amount as well as interest only statutory benefits.

8. Learned advocate for the respondent Nos. 3 and 4 has endorsed the same contention.

9. Heard both the sides. Perused the application.

10. It is apparent that the appellant received the copies on 27/01/2022 but due to inadequate knowledge about the legal provisions, he could not approach to the counsels and therefore, there is delay in preferring the appeal.

11. The land of the appellant is acquired by the Government and inadequate amount of compensation was awarded therefore, he preferred the reference but the reference Court has also awarded inadequate compensation. To prefer an appeal is statutory right of the appellant. It is

well settled that, parties cannot be deprived of their statutory right for the technical reason.

12. It is further well settled that while considering the delay condonation application liberal approach is to be taken to do the substantial justice.

13. In view of the reasons mentioned in the application, delay deserves to be condoned, subject to the waiver of the interest on compensation amount as well as on the statutory amount of compensation.

14. In view of that civil application No. 603/2023 is allowed. Delay of 197 days is condoned, subject to the waiver of the interest on compensation as well as statutory amount.

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Heard.

2. **Admit.**

3. Ms Shamshi Haider, learned AGP waives service of notice on behalf of respondent Nos. 1 and 2.

4. Ms Mallika, Advocate h/f Mr M.A. Kadu, learned Advocate for respondent Nos. 3 and 4.

5. Call for record and proceedings.

6. Appellant to file private paper-book within a period of ten weeks after receipt of record and proceedings.

7. Place the matter for final hearing after private paper-book is filed and its verification, as per its turn.