

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

CIVIL APPLICATION NO.1169 OF 2023

IN

FIRST APPEAL (ST.) NO.21945 OF 2022

(Wasant s/o Sakharam Dahatonde Vs. State of Maharashtra and ors.)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S.P Pawar, Advocate for the appellant.
Shri T. Zaheer, Advocate for respondent No.2.
Ms. Udeshi, A.G.P for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- APRIL 20, 2023.

Heard.

2. The application is for condonation of delay which is caused in filing the appeal.

3. Issue notice to the respondents, returnable in four weeks.

4. Shri Zaheer, learned Counsel for respondent No.2 and learned Assistant Government Pleader for respondent Nos.1 and 3, waive notice.

5. The application is filed on the ground that the applicant is a poor villager having no legal knowledge. After passing of the impugned judgment, he approached to the learned Counsel however, learned Counsel advised him that there is no chances for enhancement in the awarded amount in the instant matter, and therefore, he has not preferred the appeal. Subsequently, he approached to the another Counsel and he got knowledge about granting of proper enhanced compensation, therefore, he

preferred the appeal and due to the acquisition of the land he was facing financial crisis, and therefore, could not manage the amount for filing the appeal which is also one of the reason for condonation of delay.

6. Shri Zaheer, learned Counsel raised objection on the ground that the delay is not properly explained.

7. Learned Assistant Government Pleader endorsed the same contentions.

8. Considering the reasons mentioned in the application that the land of the applicant is already acquired and now he has no source of income, therefore, he could not manage the amount to prefer an appeal for paying the court fee. The another reason mentioned is that the applicant was not having knowledge regarding the preference of the appeal. He was also misguided by his Counsel. It is common knowledge that the rustic villagers are dependent upon their Counsel and oftenly they are misguided, therefore, the reasons mentioned in the application appears to be just and reasonable one. Moreover, while considering the delay condonation application liberal approach is to be taken to do the substantial justice.

9. In view of that the delay deserves to be condoned.

10. Hence, the delay of 2352 days is condoned subject to the waiver of the interest for the delayed period.

11. The application is disposed of.

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Heard.

2. Appeal be registered.
3. Issue notice to the respondents.
4. Learned Assistant Government Pleader for respondent Nos.1 and 3 and Shri Zaheer, learned Counsel for respondent No.2, waive notice.
5. Call for R. & P.
6. It is submitted by Shri Pawar, learned Counsel for the appellant that the matter can be disposed of at the admission stage.
7. Learned Counsel Shri Zaheer has to verify the fact that whether it is covered by the earlier judgment.
8. Stand over after summer vacation.

(URMILA JOSHI-PHALKE, J.)

**Divya*