

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

CIVIL APPLICATION (CAF) NO. 100/2021 IN FIRST APPEAL
STAMP NO. 24206/2019

Sheshrao Laluba Doifode V/s The State of Maharashtra 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 N.B. Kalwaghe, counsel h/f Mr S.S. Gaikwad, counsel for the appellant / applicant.

Ms T.H. Udeshi, AGP for the respondent Nos. 1 and 2

Mr T.M. Zaheer, counsel for the respondent No.3.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 03/03/2023.

1. By preferring this application, the applicant seeks condonation of delay of 865 days in filing the appeal.

2. As per the contention of the applicant, though the learned Reference Court granted enhanced compensation but it is not according to the market value and the learned trial Court has not considered the evidence on record and awarded inadequate compensation. Therefore, the present appeal is preferred by the applicant for enhancement of the compensation. However, a delay of 865 days is caused in preferring the appeal.

3. As per the grounds raised by the applicant in the application, they are poor agriculturist, and their land is already acquired by the Government. They have no source of income and therefore, they were facing financial crises and could not approach to the Court for preferring the

appeal. Another ground raised by the applicant is that they have no knowledge of legal provisions and limitation of filing an appeal and therefore, the delay is caused. There is sufficient and reasonable cause for the condonation of delay.

4. Said application is strongly opposed by the learned counsel for the respondent Mr A.M. Zaheer, on the ground that there is no reasonable justifiable reason for condonation of delay and hence delay application deserves to be rejected.

5. Heard learned counsel Mr N.B. Kalwaghe for the applicant and Mr T.M. Zaheer counsel for respondent No.3.

6. Learned counsel, Mr N.B. Kalwaghe for the appellant placed reliance on the order of this Court passed by the Civil Application No. 56/2021 in First Appeal Stamp No. 24206/2019. He submitted that, the applicant is a poor agriculturist was facing for financial crisis and also not aware about the legal provisions therefore, the delay is caused. Delay is not an intentional one. There is sufficient and reasonable cause for the condonation of delay. Whereas, the learned counsel for the respondent Mr T.M. Zaheer, submitted that the delay is not properly explained.

7. Perused the application and considered the submissions of both the sides. Admittedly, the applicant has filed this appeal for enhancement of the compensation he

has claimed the compensation under the provisions of beneficial legislation. It is well settled that while considering the delay application, liberal approach is to be taken to substantiate justice.

8. In view of the reasons mentioned in the application, the applicant has made out sufficient ground for condonation of delay. However, considering the delay, the applicant will not be entitled to receive the interest on an enhanced amount of compensation for the said delayed period. Hence, I proceed to pass the following order.

Civil application No.100/2021 is allowed. The delay of 865 days in filing the first appeal is condoned, subject to the waiver of interest of the delayed period.

First Appeal St. No. 24206/2019

1. Heard.
2. Admit.
3. Call for record and proceedings.
4. Appellant to file private paper-book within a period of ten weeks after receipt of record and proceedings.
5. Place the matter before the Court after private paper book is filed and its verification for final hearing, as per its own turn.

JUDGE