

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

**CIVIL APPLICATION NO.764 OF 2023 IN
FIRST APPEAL (ST.) NO.27608 OF 2018**

(Smt. Jyotibai wd/o Devidas Rathod and anr. Vs. The Executive Engineer, Minor Irrigation
Department 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.V. Ingole, Advocate for the appellants.
Shri Gaidhane, Advocate for respondent No.1.
Shri M.A. Kadu, AGP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- MARCH 21, 2023.

Heard.

2. The application is filed for condonation of delay in filing the first appeal.

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

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

5. As per the contention of the appellants, they have not received the amount of compensation either from the acquiring body or from the reference court.

6. The claimants – applicants are the poor agriculturist and their land is already acquired by the Government. Now they have no source of income, and therefore, they could file the appeal within time.

7. It is further the contention of the claimants that they were facing financial crisis and they were not aware about the legal provisions, is also one of the reasons for non-filing of the appeal within time.

8. Said application is strongly opposed by Shri Gaidhane, learned Counsel for respondent No.1 on the ground that the delay is not properly explained and is intentional one.

9. Learned Assistant Government Pleader endorsed the same contentions.

10. Heard both the sides and perused the application.

11. Considering the reasons mentioned in the application and as the applicants are claiming compensation under the beneficial peace of legislation and to do the substantial justice, they be permitted to litigate the cause on merits. However, the acquiring body cannot be saddled with the responsibility for paying the interest for the delayed period.

12. In view of that the delay is condoned subject to waiver of the interest for the delayed period as well as on interest on the statutory amount of compensation.

13. Civil application is disposed of.

FIRST APPEAL (ST.) NO.27608 OF 2018

Heard.

2. Appeal be registered.

3. **ADMIT.**

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

5. Call for R. & P.

6. The appellant to file private paper book within eight weeks after receipt of R. & P.

7. Place the matter for final hearing after filing of the paper book and its verification, as per its turn.

(URMILA JOSHI-PHALKE, J.)

**Divya*