



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CIVIL APPLICATION NO. 7739 OF 2023
IN FAST/11842/2023**

HIMMAT RAMA GAIKWAD AND ANR
VERSUS
THE EXE. ENGINEER, MINOR IRRIGATION DIV., (LOCAL
SECTOR) JALNA AND ORS

...
Mr. Vilas M. Humbe, Advocate for Applicants.
Mr. K. S. Patil, AGP for Respondents.

...
CORAM : S. G. CHAPALGAONKAR, J.
DATED : 29th APRIL, 2024.

PER COURT:-

1. By this application, the applicants seek to condone the delay of 1124 days caused in filing the Appeal against award dated 26.09.2019 passed by the Reference Court under the provisions of Land Acquisition Act.

2. Mr. Humbe, learned Advocate appearing for the applicants submits that the applicants have lost their lands on account of compulsory acquisition for construction of Rajewadi Storage Tank. The Land Acquisition Officer passed meager award. The applicants had, therefore, approached the Reference Court. However, the Reference Court granted marginal enhancement ignoring the material on record. He would further submit that the delay caused in filing the Appeal is not intentional. The delay has been duly explained in paragraph nos.2 to 6 of the application. He would, therefore, urge to condone the delay.

3. Mr. Patil, learned A.G.P. appearing for the respondents vehemently opposes the prayer contending that there is inordinate delay, which has not been properly explained. In alternative, he submits that in case this Court condones the delay,

the applicants shall not claim interest on the enhanced compensation amount for the period of delay.

4. Having considered submissions advanced and on perusal of the reasons as stated in paragraph nos.2 to 6, the applicants have given sufficient explanation for the delay. It appears that the applicants have not derived any advantage by making delay. However, interest of the respondents also needs to be protected, since they will be paying interest on the enhanced compensation as per statutory rate. In this circumstance, case is made out to condone the delay subject to conditions. Hence, the following order:

ORDER

- a. Civil Application is allowed.
- b. Delay of 1124 days caused in filing the First Appeal against the Award dated 26.09.2019 in L.A.R. No.61/2013 passed by the Reference Court at Jalna is condoned subject to condition that the applicants file an undertaking to this Court that they shall not claim the interest for the delay period on enhanced compensation, in case this Court allows the Appeal.
- c. Such an undertaking to be filed within a period of twelve (12) weeks from today.
- d. On appropriate compliance of condition, Appeal be registered.
- e. On registration of Appeal, issue notice to the respondents. The learned A.G.P. waives notice for all the respondents.
- f. Call for Records and Proceedings.

(S. G. CHAPALGAONKAR)
JUDGE