

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 6553 OF 2023
IN
FIRST APPEAL STAMP NO.13021 OF 2023

Shankarrao Venkatrao Kulkarni (deceased) Thr Lrs. Nagesh
Shankarrao Patil (Kulkarni) And Ors

VERSUS

The State Of Maharashtra, Through Collector Parbhani And
Anr

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Advocate for Applicants: Mr.T.K. Sant h/f Ms. R.D. Chinchpurkar
Advocate for Respondents : Mr. S B Jadhav

CORAM : S. G. CHAPALGAONKAR, J.

Dated : August 23, 2024

ORDER :-

1. The applicants seeks to condone the delay of 7309 days caused in filing First Appeal against the judgment and Award dated 13.1.2003 passed by the Civil Judge Senior Division, Pabrhani in LAR No.1025 of 1997 (LAR No.89/1996 old).

2. The applicants are the original claimants in LAR No.1025 of 1997. Their land bearing survey no.3/1 situated at village Pimpri (Zola), Tq. Gangakhed, District Parbhani was subjected to acquisition to the extent of 67R under notification dated 6.9.1990 issued under section 4 of the Land Acquisition Act. Final Award was passed on 20.5.1994. Land Acquisition Officer had fixed marked price of the land @ Rs.5,400/- per Acre. Accordingly, compensation was awarded with other statutory benefits. Aggrieved claimants filed reference under

section 18 of the Land Acquisition Act and claimed compensation @ Rs.50,000/- per acre. Reference Court after evaluating the evidence tendered into service, passed an award dated 13.1.2003 thereby granting enhanced compensation @ Rs.12,000/- per acre. The applicants filed present appeal dated 9.3.2023 seeking enhancement of compensation alongwith application to condone the delay of twenty years (7309 days). Applicants contends that they are poor agriculturists and rustic villagers, ignorant of the legal procedure. They were out of station for their livelihood. After judgment and award passed by the Reference Court, they could not approach this Court due to economic crises. Delay caused in filing the appeal is not intentional or deliberate. Valuable rights of the applicants are involved. They have a good case on merit. In case delay is not condoned, they would be deprived from the valuable rights to get adequately compensated.

3. On consideration of the reasoning as stipulated in paragraph nos.2 to 4, except general grounds, no particulars are provided to explain the causes for not preferring the appeal during period of last twenty years. Apparently, applicants were assisted by Advocate. Poverty itself cannot be a ground. Pertinently, applicants have received enhanced compensation as per Award of the Reference Court. The Supreme Court of India in case of *Pathapati Subba Reddy (Died) by L.Rs. And Ors. Vs. The Special Deputy Collector (LA)* reported in [2024] 4 SCR 241 recently considered the matter pertaining to delay condonation in the appeal arising out of the proceeding under Land Acquisition Act and laid down following principles of law

to be considered in the matter of delay condonation. In paragraph no.26, observed thus :-

“26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law [laid down by](#) this Court, it is evident that :

- (i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;
- (ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;
- (iii) The provisions of the [Limitation Act](#) have to be construed differently, such as [Section 3](#) has to be construed in a strict sense whereas [Section 5](#) has to be construed liberally;
- (iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in [Section 3](#) of the Limitation Act;
- (v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;
- (vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;

- (vii) Merits of the case are not required to be considered in condoning the delay; and
- (viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.”

4. If the aforesaid principle of law applied in the facts of the case, apparently, there is no plausible explanation for inordinate delay of twenty years in filing the appeal. The application sans a particulars in support of the reasons for delay. Apparently, the applicants are trying to reopen stale/abandoned claim after twenty years. Section 3 of the Limitation Act prescribes that no claim or appeal shall be entertained beyond prescribed period of limitation. Section 5 is an exception to the aforesaid rule and mandate that, in case, a ‘*sufficient cause*’ is shown, the Courts within it’s discretion can condone the delay. The term “*sufficient cause*” has been liberally interpreted by the Supreme Court of India as well as this Court and, particularly, in the matters of compensation, it has been generally interpreted so as to extend benefit to the claimants. However, liberal interpretation of the term “*sufficient cause*” cannot be stretched to the extent that it nullifies object and purpose of the limitation Act. A right or remedy that has not been exercised or availed for a long time must come to an end or cease to exist after a fixed period of limitation. The proposition of law espoused by the Supreme Court of India in case of **Collector, Land Acquisition, Anantnag and Ors. Vs. Katiji and Ors** reported in 1987 SC 1353 cannot be

extended to defeat whole object of the law of limitation. The stale claims or dead matters cannot be reviewed or reopened taking recourse to section 5 of the Limitation Act.

5. In the present case, there is absolutely no justification to condone huge and inordinate delay of more than twenty years. In that view of the matter, no case is made out to condone the delay. Hence, the application stands **rejected**.

(S. G. CHAPALGAONKAR)
Judge

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