



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 8087 OF 2016
IN FAST/15941/2016**

Indubai Digambarrao Kandharkar .. Applicant

Versus

The State of Maharashtra and others .. Respondents

Mr. H. B. Nandagavale, Advocate h/f Mr. V. G. Sakolkar, Advocate for the Applicant.

Mr. D. B. Bhange, AGP for Respondent Nos. 1 and 2.

Mr. Kishor Ingole, Advocate h/f Mr. Anand Chawre, Advocate for Respondent No. 3.

CORAM : R. M. JOSHI, J.

DATE : 24th JANUARY, 2024.

PER COURT :-

. This application is for condonation of delay of 1145 days caused in filing first appeal against the judgment and award dated 17.12.2012 passed in L.A.R. No. 99/2012. It is the contention of the applicant that, she is aged about 91 years and for want of knowledge of the impugned judgment and award no immediate steps could be taken to prefer the appeal. She is also claimed that she does not have any source of income and hence, only after collecting money and payment of Court fees the appeal would be preferred.

2. The learned counsel fo the respondent No. 3 opposes the

contention of the applicant on the ground that, delay is not satisfactorily explained. According to him, the applicant could not be allowed to take advantage of her own wrong and as such if the Court is of the view that the delay deserves to be condoned, interest for the said period be denied to the applicant.

3. This is a case of compulsory acquisition. The applicant/original claimant is within her right to seek fair compensation against such compulsory acquisition. Having regard to the age of the applicant and the reasons put forth for condonation of delay, this Court finds no malafides which are attributable against her. Hence, the application deserves to be allowed.

4. Accordingly, the application is allowed in terms of prayer clause (B). The appeal be registered. The applicant shall not be entitled for the interest for the period of delay if the applicant succeeds in the appeal.

5. The civil application is disposed of.

(R. M. JOSHI, J.)

PS.B.