



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

**CIVIL APPLICATION NO. 8916 OF 2023
IN FAST/19865/2023**

KANBA SAKHARAM GADADE

VERSUS

**THE STATE OF MAHARASHTRA THR THE COLLECTOR,
JALNA AND ORS**

...

Mr. Shubham Madhavrao Kakde and Mr. D. M. Kakade, Advocate
for Applicant.

Mr. A. M. Phule, AGP for Respondents.

...

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

PER COURT:-

1. By this application, the applicant seeks to condone the delay of 1975 days caused in filing the Appeal against award dated 30.10.2017 passed by the Reference Court under the provisions of Land Acquisition Act.

2. Mr. Kakde, learned Advocate appearing for the applicant submits that the applicant has lost his agriculture land due to compulsory acquisition for the purpose of construction of percolation tank. The Land Acquisition Officer assessed meager compensation. Therefore, the applicant had approached the Reference Court seeking enhanced compensation. However, the Reference Court did not apply its mind to the evidence tendered into service as well as principles of assessment under statutory provisions and various pronouncements of the Courts. He would submit that the delay caused in filing the Appeal is not intentional, but on account of reasons as stated in paragraph nos.2 to 11 of the application.

3. Mr. Phule, learned Advocate appearing for respondents opposes the prayer. He submits that the reasons as stated in the application does not constitute sufficient cause. In alternate, he submits that if this Court finds that the delay needs to be condoned, the applicant shall not claim interest for the delayed period.

4. Having considered submissions advanced and after going through the reasons as stated in the application from paragraph nos.2 to 11, it appears that the applicant is litigating for getting just compensation towards acquired land. Due to the economical condition and others reasons, he could not approach this Court at the earliest. The delay caused in filing the Appeal appears to be unintentional. Although applicant has not derived any advantage by making delay, since the respondents may suffer an award alongwith statutory interest, in case this Court grants enhanced compensation, it would be appropriate to direct that the applicant shall not claim the interest on enhanced compensation for the period of delay. With such condition, case is made out for condonation of delay. Hence, the following order:

ORDER

- a. Civil Application is allowed.
- b. Delay of 1975 days caused in filing the First Appeal against the Award dated 30.10.2017 in L.A.R. No.619/2012 passed by the Reference Court at Jalna is condoned subject to condition that the applicant files an undertaking to this Court that “he 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 filing of such undertaking, 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