



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

1000 CIVIL APPLICATION NO. 2791 OF 2025
IN FAST/10067/2023

Mahadev Govind Bhange Died
Through Lrs Gowardhan Mahadev Bhange And Ors
VERSUS
The State Of Maharashtra
Through The Collector Osmanabad And Ors

Mr.P.B.Rakhunde, Advocate for applicants
Mr.S.S.Dande, AGP for respondent nos.1

WITH
CIVIL APPLICATION NO. 6049 OF 2023
IN FAST/10067/2023
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CORAM : AJIT B. KADETHANKAR, J.
DATE : SEPTEMBER 18, 2025

ORDER :-

Mr.Rakhunde, learned counsel for the applicants, relies upon the order dated 16.09.2021, passed by this Court in Civil Application No.9573/2021 in First Appeal St. No.24049/2019. He submits that the cited matter arose from the same land acquisition proceedings and award, which are subject of present appeal. He would submit that the appellant therein and the appellant in the present appeal, raised same objection in both the matters. He would further submit that upon hearing the parties, this court has allowed the

applicant therein to withdraw 65% of the amount deposited by the acquiring body; out of which, 50% amount was allowed to be withdrawn on furnishing usual undertaking and 15% amount on furnishing solvent surety. On the principle of parity, he requests of same order. Mr.Rakhunde, learned counsel, would further submit that vide subsequent order dated 06.01.2025, this court further permitted withdrawal of 10% the amount, on furnishing undertaking. As such, he prays that present applicant also be permitted to withdraw 75% of the amount in the same manner, i.e. 60% on furnishing usual undertaking and 15% on furnishing solvent surety/security.

2. Mr.Chaware, fairly concedes the fact of the orders passed by this court in the cited matters.

3. In view of the above, I pass the following order:-

(i) The applicants are permitted to withdraw 60% of the deposited amount, on furnishing undertaking to the satisfaction of learned Registrar (Judicial); and 15% of the amount on furnishing solvent security/surety to the satisfaction of learned Registrar (Judicial).

(ii) The application stands disposed.

C.A. for delay condonation:

4. This is the Civil Application for condonation of delay of 2152 days in filing the appeal the acquiring body against the judgment and award dated 16.12.2016 in LAR No.264/2015, passed by learned C.J.S.D., Bhoom, Dist. Osmanabad.

5. The applicant/appellant submit that they are public/ Government body and there are various processes in filing an appeal in the court. That, the administrative exigency in obtaining various approvals as also requisite funds/court fees consumes much time, which results into such delay. The applicant further submits that the delay caused in filing the appeal is neither deliberate nor willful nor outcome of any lethargy on the part of any authority. That, valuable interest/right of the applicant/appellant are involved in the matter. The applicant/appellant is the custodian of the funds. It is further submitted that for the reasons stated above, the applicant seeks condonation of delay with a prayer to adjudicate the appeal on its merits.

6. Per contra, the respondent, vehemently, opposes the application and submits that this is an attempt to harass the respondents. The respondents further submits that for the lapses

and latches of the applicant/appellant, the respondents must not suffer. With this, the respondents seek rejection of the application.

7. Upon having heard both the parties, I am of the considered view that the administrative exigencies, as explained by the applicant, generally do result in delay in filing the First Appeals. It is apparent that the delay caused in filing present appeal is a big enough requiring the Court to apply judicious mind cautiously to use the discretion to condone the delay. The parameters to use such discretion are set by various verdicts of the Honorable Supreme Court as also by this Court in various cases.

8. A profitable reference can be made to the Judgment & Order passed by the Honorable Supreme Court in the case of **Sheo Raj Singh (Deceased through LRs.) & Ors. V/s Union of India and ors. [Civil Appeal No.5867 of 2015 dtd.09-10-2023]**. Honorable Supreme Court was dealing with an Appeal wherein High Court's order condoning delay of 479 days caused in filing a First Appeal by the Government against a Judgment & Award passed in Land Acquisition Reference was under challenge.

9. Considering the overall law prevailing in the field of 'condonation of delay in appeals filed by the Government bodies and

Authorities', the Honorable Supreme Court approved the view adopted by the High Court to condone the delay.

10. In the present case firstly , the object in challenging the impugned Judgment & Award is averred not only to save the public funds, but to object unjust and irrational consideration rendered by the Ld. Trial Court excepting the concept of 'Just & Fair Compensation'. Secondly, if the appeal is heard on its own merit it would lead to substantial justice. For the delayed period , the charge of interest on the award amount is also running. As such the interest of the claimants is protected enough. Rather if the delay is not condoned, it would result into miscarriage of justice. In the present case, the Appellant has even deposited substantial portion of the Award in the Court which is even withdrawn by the claimant side. Thirdly, the applicant/Appellant has sufficiently and properly explained the delay although not day-to-day. In my considered opinion, present case is squarely covered by the law laid down in "**Sheo Raj** case" (Supra) wherein its held that, length of delay is not decisive in such cases where delay is properly explained.

11. For the reasons stated above, I am of the pragmatic view that by using the judicial discretion, delay in filing present First Appeal deserves to be condoned.

12 Hence I pass following order:-

(i) The delay of 2152 days in filing the First Appeal stands condoned. The application stands allowed.

(ii) The Registry to register the appeal, subject to removal of the office objections, if any, by the applicant/appellant. On registration, issue notice to the respondents. Mr.Rakhunde, learned counsel, waives notice for respondent nos.1 to 5.

(iii) The matter be listed after service of notice is complete. In the meantime, applicant/appellant shall take recourse to Chapter II of the Bombay High Court Appellate Side Rules, 1960, corresponding to the position of the matter.

[AJIT B. KADETHANKAR, J.]

KBP