



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

**CIVIL APPLICATION NO 8773 OF 2024
IN FAST/14417/2024**

**RAFIYODDIN ABDUL RAHIM THR. GPA MOHD. ASIFODDIN MOHD.
ANINODDIN**

VERSUS

**THE STATE OF MAHARASHTRA THROUGH COLLECTOR NANDED AND
ANR.**

...

Advocate for Applicant : Mr. G.N. Chincholkar
A.G.P. for Respondent nos. 1 and 2 : Mr. B.A. Shinde

CORAM : SHAILESH P BRAHME, J.
DATE : 25.08.2025

PER COURT :

Heard both sides.

2. The applicant is seeking condonation of delay of 10600 days in preferring appeal, challenging the judgment and award dated 02.02.1995 passed in Land Acquisition Reference No. 115/1993 by the Civil Judge, Senior Division, Biloli. The learned counsel for the applicant submits that for the reasons stated in the application that his client being old, ailing and unable to arrange the expenses, the delay needs to be condoned. It is submitted that his client was not aware of the impugned judgment and award till September 2020. It is further submitted that the applicant learnt about the decision rendered in similarly situated matters relating to acquisition of land in the adjoining village for the same project, and the present appeal has been preferred on the ground of parity.

3. The learned counsel adverts my attention to amended ground that First Appeal No. 3133/2009 was decided on 16.01.2019, in which compensation was enhanced by awarding rate of Rs. 1,25,000/- per hectare and the applicant is entitled to the same rate. It is further submitted that

the applicant is ready to give up interest for the delayed period and therefore delay needs to be condoned. Reliance is placed on judgment of the Apex Court in **Ram Chander (deceased) Through his L.Rs. And others; Vs. Union of India and another; (2020) 15 Supreme Court Cases 491**. It is submitted that pragmatic approach be adopted in condoning the delay to do substantial justice to the applicant.

4. Per contra, the learned A.G.P. would rely upon affidavit in reply to counter the submissions. It is submitted that all the grounds stated in the application are denied for want of material particulars. It is submitted that the delay is inordinate and the application is filed very casually. The reasons mentioned in the application are inconsistent. It is submitted that the applicant received the compensation in execution of Regular Darkhast No. 64/1995, which is not disclosed. He was able to file the appeal in time. It is submitted that the application is after thought and no benefit of parity can be given to the applicant. Reliance is placed on order passed by this Court dated 20.06.2025 in the matter of **Inayatali Fayajsab Mujawar Vs. The State of Maharashtra and anr.**

5. I have considered the rival submissions of the parties. I have gone through the application and the affidavit in reply. The impugned judgment and award was passed on 02.02.1995. First Appeal with application for condonation of delay is filed on 10.05.2024. There is huge delay of 10600 days. It is stated in paragraph no. 2 of the application that the applicant learnt about the impugned judgment in September 2020. Thereafter also there is delay of more than 3 years. In paragraph no. 3 of the application it is contended that the applicant learnt about the impugned judgment in February 2024. The averments in paragraph nos. 2 and 3 are inconsistent to each other. It is not clear as to when the applicant learnt about the impugned judgment. He is trying to cover up the delay.

6. It is not disclosed by the applicant that Regular Darkhast No. 64/1995

was filed by him and he was disbursed an amount of compensation. Despite that no appeal was preferred immediately thereafter. Under these circumstances, the ground that due to poverty he was unable to file appeal, is preposterous. It is not made clear as to whether the applicant has any assistance from the members of the family. The power of attorney is his nephew, who could have preferred the appeal without causing such delay. The application is silent on material particulars like exact knowledge of date of impugned judgment, receipt of amount of compensation and the nature of illness. The learned A.G.P. has rightly submitted that application is liable to be rejected.

7. The application suffers from suppression of material facts and suppression amounts to fraud. I find that there are *mala fides* on the part of the applicant in filing this application relying on judgment passed in First Appeal No. 3133/2009. It is impermissible to condone such inordinate delay when applicant was satisfied with the compensation awarded by the reference Court. The rate awarded in the First Appeal cannot be ground to condone delay of more than 10000 days.

8. Reliance placed by the applicant on the judgment of the Supreme Court in **Ram Chander (deceased) Through his L.Rs. And others; Vs. Union of India and another (supra)** is not helpful to him because in that matter there was delay of 6593 days. No *mala fides* were found on the part of the applicant in that matter. I am of the considered view that in the present matter there is suppression of material facts and *mala fides* on the part of the applicant, delay cannot be condoned by dispensing with the interest of the delayed period.

9. The Civil Application is rejected.

(SHAILESH P. BRAHME, J.)

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