



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

**CIVIL APPLICATION NO. 8495 OF 2025
IN FAST/16422/2025**

The Executive Engineer Irrigation Division Beed And Ors

VERSUS

Jija Kisan Khade Died Thr Lrs Sojarbai Khade And Ors

...

Mr. R. C. Patil, Advocate for Applicants

Mr. S. R. Shirsath, Advocate for Respondents

...

WITH

CIVIL APPLICATION NO. 8496 OF 2025 IN FAST/16422/2025

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CORAM : AJIT B. KADETHANKAR.

DATED : 24TH SEPTEMBER, 2025

ORDER :-

CIVIL APPLICATION NO. 8495 OF 2025 IN FAST/16422/2025 (DELAY)

. This is an application seeking condonation of delay of 1107 days challenging the judgment and award dated 02.02.2021, passed by the learned Joint Civil Judge Senior Division, Majalgaon in L.A.R. No.32 of 2012.

2. Its 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 Hon'ble Supreme Court as also by this Court in various cases.

3. A profitable reference can be made to the Judgment & Order passed by the Hon'ble 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]**. Hon'ble 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.

4. Considering the overall law prevailing in the field of 'condonation of delay in appeals filed by the Government bodies and Authorities', the Hon'ble Supreme Court approved the view adopted by the High Court to condone the delay.

5. 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 claimant is protected enough. Rather if the delay is not condoned, it would result into miscarriage of justice. Thirdly, the applicants/appellants 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.

6. 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. Hence I pass following order:

ORDER

- a. Delay caused in filing First Appeal is hereby condoned.
- b. Civil Application stands allowed.
- c. Registry to register the First Appeal, subject to removal of office objections, if any, by the applicants/appellants within four weeks from today.
- d. Appellant/Applicants shall not claim any statutory benefit or interest for the period of delay.

FIRST APPEAL ST. NO.16422 OF 2025

. Issue notice to the respondents. Learned Advocate Mr. S. R. Shirsath waives service of notice for respondents.

2. Admit.

3. Call Record and Proceeding.

CIVIL APPLICATION NO. 8496 OF 2025 IN FAST/16422/2025 (STAY)

. Issue notice to the respondents. Learned Advocate Mr. S. R. Shirsath waives service of notice for respondent.

2. Mr. R. C. Patil, learned Advocate for Acquiring Body submits that the Acquiring Body shall deposit the entire payable award amount with this Court within period of twelve weeks from today.

3. In view of this, execution and operation of the impugned judgment and award is stayed for twelve weeks from today. Applicant/appellant shall deposit the entire payable award amount together with accrued interest thereon within period of twelve weeks from today.

(AJIT B. KADETHANKAR, J.)