



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

**CIVIL APPLICATION NO. 7288 OF 2023
IN FAST/17565/2023**

The Executive Engineer, Irrigation Project Majbutikaran
Vibhag Omerga

VERSUS

Arun S/o. Bhimrao Mane And Ors

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Mr. G. B. Rajale, Advocate for Applicant

Mr. S. V. Hange, AGP for Respondents-State

Mr. S. N. Patne, Advocate for Respondent no.1

WITH

CIVIL APPLICATION NO. 7289 OF 2023 IN FAST/17565/2023

WITH

CIVIL APPLICATION NO. 7293 OF 2023 IN FAST/17569/2023

WITH

CIVIL APPLICATION NO. 7295 OF 2023 IN FAST/17569/2023

WITH

CIVIL APPLICATION NO. 8891 OF 2025 IN FAST/17565/2023

.....

CORAM : AJIT B. KADETHANKAR.

DATED : 11TH SEPTEMBER, 2025

ORDER :-

CIVIL APPLICATION NO. 7288 OF 2023 (DELAY)

CIVIL APPLICATION NO. 7293 OF 2023 (DELAY)

. Heard for the respective parties.

2. These Civil Applications are filed for condonation of delays amounting to 78 days, caused in filing the First Appeals.

3. Mr. G. B. Rajale, learned Counsel for the applicant submits that due to administrative exigency, this delay is

resulted in filing the First Appeals. He submits that there was no negligence nor any lethargy on the part of any authority. He would further submits that the delay of 78 days is also inordinate. Mr. Rajale further submits that pursuant to the stay granted by this Court to the execution and operation of the judgment and award impugned in the appeal, he has already deposited entire amount in this Court. He then submits that condoning the delay would not cause any prejudice to the claimants.

4. Mr. S. N. Patne, learned Counsel appearing for the claimants and Mr. S. V. Hange, learned AGP record their no objection for condonation of the delay.

5. In view of above considered opinion, following order:

ORDER

- a. Civil Applications stand allowed.
- b. Delay caused in filing the respective First Appeals is hereby condoned.
- c. Appeals be registered, subject to removal of office objections within period of four weeks from today. After registration of First Appeals, issue notice to the respondents. Mr. S. N. Patne, learned Advocate waives service of notice for respondent no.1.

FIRST APPEAL ST. NO.17565 OF 2023
FIRST APPEAL ST. NO.17569 OF 2023

- . Admit.
2. Call Record and Proceeding.
3. Issue notice to the respondents. Mr. S. V. Hange, learned AGP waives service of notice for respondents-State. Mr. S. N. Patne, learned Advocate waives service of notice for respondent no.1.

CIVIL APPLICATION NO. 7289 OF 2023 (STAY)
CIVIL APPLICATION NO. 7295 OF 2023 (STAY)

- . It is submitted by both the parties that entire payable award amount is already deposited by the Acquiring Body in this Court.
2. In view of this statements, stay granted earlier is made absolute.
3. Civil Application is allowed in terms of prayer clause 'B'.

CIVIL APPLICATION NO. 8891 OF 2025 (WITHDRAWAL)

- . This is an application for withdrawal of the amount deposited by the Acquiring Body in this Court while seeking the stay to the execution and operation of the impugned

judgment and award dated 03.09.2022, passed by the Joint Civil Judge, Senior Division, Omerga, Dist. Osmanabad in L.A.R. No.409 of 2014, in the First Appeal.

2. Mr. S. N. Patne cites an order dated 05.04.2024 passed by this Court in Civil Application No.3298 of 2024 in First Appeal No.842 of 2024. Referring to and relying on the said order, he further submits that the First Appeal No.842 of 2024 is filed out of the same land acquisition proceeding and award, which is subject matter of the present First Appeal. He submits that the applicants/owners of the lands have lost their source of livelihood. Mr. Patne further submits that the applicants be permitted to withdraw 75 percent of the amount deposited by the appellant in this Court on parity, as is allowed by this Court in the cited matter.

3. Mr. S. N. Rajale, representing the Acquiring Body/appellant fairly accepts the factual position and has no objection for withdrawal of 75 percent amount deposited in this Court.

4. In view of above consideration, I have no hesitation to pass following order:

ORDER

- a. The application is partly allowed.
- b. The applicant is permitted to withdraw 75 percent of the amount deposited with this Court. Out of it, 50 percent amount be released on furnishing undertaking that they would deposit the amount if the impugned judgment and award is reversed, and 25 percent amount be released on furnishing on solvent surety/security.
- c. The balance amount be invested in fixed deposit in any nationalized bank, as per rules.

(AJIT B. KADETHANKAR, J.)