



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

**CIVIL APPLICATION NO. 10250 OF 2025
IN FAST/26424/2023**

Yamunabai Shamrao Karale And Anr

VERSUS

The Executive Engineer Minor Irrigation And Anr

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Mr. R. V. Gore, Advocate for Applicants

Mr. S. S. Dande, AGP for Respondent-State

Mr. R. B. Deshpande, Advocate for Respondent no.1

...

WITH

**CIVIL APPLICATION NO. 12924 OF 2023
IN FAST/26424/2023**

WITH

**CIVIL APPLICATION NO. 12926 OF 2023
IN FAST/26424/2023**

.....

CORAM : AJIT B. KADETHANKAR.

DATED : 20TH SEPTEMBER, 2025

ORDER :-

CIVIL APPLICATION NO. 10250 OF 2025 IN FAST/26424/2023

. Feeling aggrieved by the judgment and award dated 09.04.2019, passed by the learned 2nd Joint Civil Judge, Senior Division, Vaijapur, Dist. Aurangabad in L.A.R. No.1228 of 2010, the Acquiring Body has presented the instant First Appeal. Pursuant to the stay granted by this Court to the execution and operation of the judgment and award impugned in the First Appeal, the Acquiring Body has

deposited entire payable amount in this Court together with accrued interest thereon.

2. Present Civil Application is filed by the claimant for withdrawal of the awarded amount in the judgment and award impugned in the First Appeal.

3. Mr. R. V. Gore, learned Advocate for the applicant submits that the initial award itself was absolutely inadequate as his initial property was acquired and valuation was incorrectly carried out by the Special Land Acquisition Officer. He would further submit that at least the learned Reference Court has rightly assessed the valuation and has enhanced the compensation. Mr. Gore further submits that the claimants are in dire need of money and they may be allowed to withdraw the entire amount.

4. Per contra, Mr. R. B. Deshpande, learned Advocate appearing for Acquiring Body submits that the acquired property was absolutely not residential house, but it was merely a tin shed with grass chappar. Mr. Deshpande submits that the assessment of valuation is incorrectly exaggerated by the learned Reference Court. With this, he opposes the Civil Application.

5. Considering the arguments of both the parties, I pass the following order:

ORDER

- a. Civil Application is partly allowed.
- b. The claimants are permitted to withdraw 50 percent of the deposited amount on furnishing usual undertaking and further 30 percent on furnishing solvent surety/security to the satisfaction of the learned Registrar (Judicial) of this Court.
- c. Civil Application stands disposed of.

CIVIL APPLICATION NO. 12924 OF 2023 IN FAST/26424/2023 (DELAY)

1. This is an application seeking condonation of delay for 1398 days caused in filing the present First Appeal.
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 Honorable Supreme Court as also by this Court in various cases.

3. 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.

4. 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.

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 claimants is protected enough. Rather if the delay is not condoned, it would result into miscarriage of justice. In the present case, the applicant/appellant has even deposited the entire award amount in this Court. 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.

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 of 1398 days, 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 applicant/appellant within two weeks from today.

FIRST APPEAL ST. NO.26424 OF 2023

. Issue notice to the respondents, returnable on 16.10.2025. Learned AGP waives service of notice for respondents-State. Mr. R. V. Gore, learned Advocate waives service of notice for respondent no.1.

2. Admit.

3. Call Record and Proceeding.

CIVIL APPLICATION NO. 12926 OF 2023 IN FAST/26424/2023 (STAY)

. In view of undisputed fact that the entire awarded amount is already deposited by the Acquiring Body in this Court and as substantial portion of the such deposit is already withdrawn by the claimants, the stay granted earlier is made absolute.

2. Civil Application stands allowed in terms of prayer clause 'B'.

(AJIT B. KADETHANKAR, J.)