



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

**CIVIL APPLICATION NO. 10041 OF 2025
IN FAST/31775/2023 (WITHDRAWAL)**

Vijaykumar Govindrao Kulkarni And Anr

VERSUS

The State Of Maharashtra And Ors

...

Mr. R. V. Naiknavare, Advocate for Applicants

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

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WITH

**CIVIL APPLICATION NO. 14433 OF 2023
IN FAST/31775/2023 (STAY)**

WITH

**CIVIL APPLICATION NO. 14432 OF 2023
IN FAST/31775/2023 (DELAY)**

The State Of Maharashtra Thr.....

CORAM : AJIT B. KADETHANKAR.

DATED : 16TH SEPTEMBER, 2025

ORDER :-

CIVIL APPLICATION NO. 14432 OF 2023 IN FAST/31775/2023 (DELAY)

. This is an application seeking condonation of delay of 3498 days caused in filing the present First Appeal. Being aggrieved by the judgment and award dated 29.04.2013, passed by the learned 2nd Jt. Civil Judge, Senior Division, Osmanabad in L.A.R. No.354 of 2007, present appeal is filed by the appellant/Acquiring Body.

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 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 payable 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 it is 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 3498 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 four weeks from today.

FIRST APPEAL ST. NO.31775 OF 2023

. On registration of the First Appeal, issue notice to the respondents. Mr. S. S. Dande, learned AGP waives service of notice for respondent-State. Mr. R. V. Naiknaware, learned Advocate waives service of notice for respondent Nos.1 and 2.

2. Call Record and Proceeding.

3. The matter be listed after service of notice is complete. In the meantime, applicant/appellant shall take recourse to the provisions enumerated in Chapter II of the Bombay High Court Appellate Side Rules, corresponding to the stage and requirement of matter.

CIVIL APPLICATION NO. 10041 OF 2025 IN FAST/31775/2023

. This Civil Application is filed for withdrawal of the award amount deposited by the Acquiring Body in this Court in the present First Appeal. Obviously, the applicants are the land owners/claimants, whose lands have been compulsorily acquired by the Acquiring Body.

2. Mr. R. V. Naiknavare, learned Advocate for the applicants/claimants submits that their entitlement for the enhanced compensation has been assessed by the adjudicating authority i.e. learned Reference Court by applying judicial mind and after scrutinizing the entire evidence on record. He would further submit that the sole source of their earning and livelihood has been taken away due to the land acquisition. Hence, he prays for permission to withdraw the award amount. He then places on record an order dated 15.03.2023, passed by this Court in Civil Application No.3429 of 2023 in First Appeal No.27784 of 2019 with connected matters. Mr. Naiknavare submits that said appeals and applications therein arise out of the same land acquisition proceeding and the same land acquisition award, which is subject matter of the present appeal. He would further submit that the issues to

be decided in all these appeals are one and the same. He then submits that in the cited matters after considering the objections of the Acquiring Body, this Court has permitted withdrawal of 75 percent of the amount deposited by the Acquiring Body in this Court. On the principle of parity, Mr. Naiknavare seeks withdrawal in the same matter.

3. Mr. S. S. Dande, learned AGP in his usual fairness accepts the fact that the cited matters arise out of the same land acquisition proceedings and same land acquisition award. He agrees that the objections in all these appeals are identical, and that similar order could be passed in the present matter too.

4. In the circumstances, I pass following order:

ORDER

- a. Civil Application stands partly allowed.
- b. Applicants/claimants are permitted to withdraw 75 percent of the deposited amount together with accrued interest thereon by furnishing usual undertaking to the satisfaction of learned Registrar (Judicial) of this Court.
- c. Civil Application stands disposed of.

CIVIL APPLICATION NO. 14433 OF 2023 IN FAST/31775/2023 (STAY)

. In view of the fact that the entire payable award amount has been deposited by the appellant/Acquiring Body and that even 75 percent of such deposit is also allowed to be withdrawn to the claimants, the stay granted earlier is made absolute.

2. Civil Application seeking stay to the execution and operation of the judgment and award impugned in the First Appeal stands allowed in terms of prayer clause 'B'.

3. Civil Application stands disposed of.

(AJIT B. KADETHANKAR, J.)