



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

**CIVIL APPLICATION NO. 10249 OF 2025
IN FAST/22829/2023**

Tukaram Narahari Mhetre Bhojane

VERSUS

The State Of Maharashtra, Through The Collector And Ors

...

Ms. L. R. Thakur h/f Mr. L. V. Patil, Advocate for Applicant

Mr. R. A. Tambe, Advocate for Respondent no.3

...

WITH

**CIVIL APPLICATION NO. 10992 OF 2023
IN FAST/22829/2023**

WITH

**CIVIL APPLICATION NO. 10993 OF 2023
IN FAST/22829/2023**

.....

CORAM : AJIT B. KADETHANKAR.

DATED : 20TH SEPTEMBER, 2025

ORDER :-

CIVIL APPLICATION NO. 10249 OF 2025 IN FAST/22829/2023

. Feeling aggrieved by the judgment and award dated 07.04.2025, passed by the learned 2nd Joint Civil Judge, Senior Division, Osmanabad in L.A.R. No.255 of 2014, the Acquiring Body has filed the present First Appeal.

2. Vide earlier orders passed by this Court in Civil Application no.10993 of 2023, dated 31.08.2023 the appellant has deposited 50 percent of the total award amount in this

Court. Such deposit was a condition precedent for grant of stay to the execution and operation of the judgment and award impugned in the First Appeal.

3. The present Civil Application is filed by the claimants seeking withdrawal of the deposited amount.

4. Upon having heard both the parties, I find that today the award stands in favour of the applicant/claimant. It is not disputed that the claimant is entitled compensation, but the quantum of compensation is disputed. It seems that on hearing the arguments of the appellant on the point of quantum, this Court has directed the appellant to deposit 50 percent of the total award amount.

5. The claimant is sufferer of the compulsory land acquisition and has lost his source of earning. Today the amount is pending in the bank and it is in nobody's interest if it remains pending. In view of that, I pass following order:

ORDER

- a. Civil Application stands allowed.
- b. Claimant is permitted to withdraw the amount deposited by the Acquiring Body in this Court.

c. Submission of undertaking to the satisfaction of Registrar (Judicial) of this Court is a condition precedent for disbursement of the permitted withdrawal of amount.

d. Civil Application is disposed of in above terms.

CIVIL APPLICATION NO. 10992 OF 2023 IN FAST/22829/2023 (DELAY)

. This Civil Application is filed seeking condonation of delay of 1468 days caused in filing the present First Appeal. First Appeal is filed by the 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 claimant is protected enough. Rather if the delay is not condoned, it would result into miscarriage of justice. 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 1468 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.

. Issue notice to the respondents. Learned Advocate Ms. L. R. Thakur h/f Mr. L. C. Patil waives service of notice for respondent-sole.

2. Admit.
3. Call Record and Proceeding.

CIVIL APPLICATION NO. 10993 OF 2023 IN FAST/22829/2023 (STAY)

. Since undisputedly the applicants/appellants have complied the condition imposed by this Court vide its order dated 31.08.2023 and have deposited 50 percent of the total compensation awarded amount as was directed, the stay granted is made absolute.

2. Civil Application for stay is allowed in terms of prayer clause 'B'.

3. Civil Application is disposed of.

(AJIT B. KADETHANKAR, J.)