



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

79 CIVIL APPLICATION NO. 9320 OF 2025
IN FAST/28686/2024

SHIVAJI GANGARAM KENDRE DIED THR LRS CHANDRAKANT AND
ORS
VERSUS
THE STATE OF MAHARASHTRA THROUGH COLLECTOR LATUR AND
ORS

...
Mr. G. D. Kale, Advocate for Applicant
Mr. S. V. Hange, AGP for Respondents-State

...
WITH
CIVIL APPLICATION NO. 12148 OF 2024
IN FAST/28686/2024

THE STATE OF MAHARASHTRA THROUGH COLLECTOR LATUR AND
ORS
VERSUS
SHIVAJI GANGARAM KENDRE

WITH
CIVIL APPLICATION NO. 12149 OF 2024
IN FAST/28686/2024

THE STATE OF MAHARASHTRA THROUGH COLLECTOR LATUR AND
ORS
VERSUS
SHIVAJI GANGARAM KENDRE

...
CORAM : AJIT B. KADETHANKAR, J.
DATE : 15th SEPTEMBER 2025

PER COURT :-

CIVIL APPLICATION NO. 12148 OF 2024 (DELAY)

1. This Civil Application is filed seeking condonation of delay of 845 days caused in filing the First Appeal.
2. It is apparent that the delay caused in filing present appeals 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 applicants/appellants have even deposited substantial portion of the Award in the Court which is even withdrawn by the claimants side. Thirdly, the applicants/appellants have 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 845 days in filing the present appeal stands 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 two weeks from today.
7. After registration, the First Appeal be **admitted**. Learned counsel Mr. G. D. Kale waives service of notice for the respondent.
8. Paper book is dispensed with.

CIVIL APPLICATION NO. 12149 OF 2024 (STAY)

1. This Civil Application is filed praying for stay to the execution and operation of the judgment and award impugned in the First Appeal.
2. In view of the conditions imposed by this Court earlier while granting stay to the execution and operation of the judgment and award impugned in the First Appeal, the applicant/Acquiring Body has deposited entire payable award amount in this Court.
3. In view of this, stay granted earlier is made absolute in terms of prayer clause “B”.
4. Civil Applications stand disposed of.

CIVIL APPLICATION NO. 9320 OF 2025 (WITHDRAWAL)

1. This is Civil Application for withdrawal of the award amount deposited by the respondent/acquiring body in this Court towards compliance of the judgment and award impugned in the first

Appeal.

2. Pursuant to the interim relief granted in favour of the Acquiring Body in this Civil Application, the Acquiring Body has deposited the entire amount in this Court. As such, there is compliance of the first order passed by this Court. Pursuant to the deposits made by the Acquiring Body, present Civil Application is moved by the applicants/claimants for withdrawal of the deposited amount.

3. Mr. G. D. Kale, learned Advocate for the applicants submits that the entire source of livelihood of the applicants have been acquired by the Acquiring Body. Although, they have meager entitlement for compensation, their entitlement has been rightly adjudicated by the learned Reference Court. The Acquiring Body has unnecessarily challenged those in the appeal whereby, they are deprived of their legitimate right to get the compensation to which they deserve. With this, he seeks withdrawal of the entire amount granted by the learned Reference Court.

4. Per contra, Mr. S. V. Hange, learned AGP, appearing for the Acquiring Body vehemently opposes the Civil Application. He submits that the acquiring Body has good hopes of success in the First Appeal. He would further submits that interest of the applicants is well protected since the amount is deposited in this Court. Mr. Hange further

demonstrates his apprehension that if the entire amount is allowed to be withdrawn to the applicants, the public fund would be at danger if in the event his First Appeal stands allowed, as there is possibility that the Acquiring Body would be in difficulty to recover the amount exorbitantly granted by the learned Reference Court.

5. In view of the above consideration, I pass following order:

ORDER

- a. Civil Application stands partly allowed.
- b. The applicants are permitted to withdraw 50% of the deposited amount by furnishing usual undertaking and 25% by furnishing solvent/surety to the satisfaction of the learned Registrar (Judicial) of this Court.
- c. Balance amount, if any, be deposited in the fixed deposit in any nationalized bank.
- d. Civil Application stands disposed of.

[AJIT B. KADETHANKAR, J.]