



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

967 CIVIL APPLICATION NO. 9727 OF 2025
IN FAST/9436/2025

SUPADUSHAH HABIB FAKIR DEAD THR LRS 1A SHAMSHADBEE AND
ORS

VERSUS

1 THE EXECUTIVE ENGINEER M I W JALGAON AND ORS

WITH

CIVIL APPLICATION NO. 3638 OF 2025
IN FAST/9436/2025

THE EXECUTIVE ENGINEER MIW JALGAON

VERSUS

SUPADUSHAH HABIB FAKIR (DEAD) THR LRS. SHAMSHADBEE
SUPADUSHAH AND ORS

WITH

CIVIL APPLICATION NO. 3639 OF 2025
IN FAST/9436/2025

THE EXECUTIVE ENGINEER MIW JALGAON

VERSUS

SUPADUSHAH HABIB FAKIR (DEAD) THR LRS. SHAMSHADBEE
SUPADUSHAH AND ORS

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Mr. A. B. Kale, Advocate for Applicants (in Civil Application No.9727 of 2025)

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

Mr. S. S. Chillarge, Advocate for Respondent No.1

Mr. B. K. Pawar h/f. Mr. A. B. Kale, Advocate for respondent Nos.1 and 2 (In Civil Application No.3638 of 2025)

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CORAM : AJIT B. KADETHANKAR, J.

DATE : 10th SEPTEMBER 2025

PER COURT :-

CIVIL APPLICATION NO. 9727 OF 2025

1. This Civil Application is filed by the applicants for withdrawal of the amount deposited by the respondent/acquiring body in this Court pursuant to the judgment and award dated 08.04.2019, passed by the learned Civil Judge, Senior Division, Jalgaon, in Land Acquisition Reference No.865/2013.

2. Mr. Kale, learned counsel for the applicants, invited my attention to the order passed by this Court 3rd April 2025 and 17th July 2025. Paragraph 4 of order dated 17th July 2025 reads as follows :

“If amount is not deposited within stipulated time, ad-interim relief shall stand vacated automatically without reference to this Court. It is also communicated that this Court is likely to permit the respondents to withdraw 75% of the amount deposited without imposing any conditions.”

3. Mr. Kale further submits that despite there being order of this Court to the applicant to deposit entire payable award amount, acquiring body has not deposited such entire amount, but merely deposited Rs.29,40,600/-. He further submits that in view of paragraph

4 of the order dated 17th July 2025, as of today the stay granted earlier by this Court has lost its effect because of the failure on the part of the acquiring body to comply with the condition imposed by this Court in the order dated 3rd April 2025. He further submits that expression in the order dated 17th July 2025, that 75 percent of the deposited amount would be permitted to be withdrawn by the applicants, was also based on the assurance given by the acquiring body to deposit the balance amount as early as possible. With this, Mr Kale prays to allow the application and to permit the applicants to withdraw the amount deposited by the respondent/acquiring body in this Court.

4. Mr. Chillarge, represented the acquiring body vehemently opposes the application. He states that the appeal consists of good grounds on merit, particularly as regards the application of interest to the award amount. Secondly he submits that the learned Trial Court has erroneously considered valuation of the subject-matter property at an exorbitant rate and in any event has given exorbitant compensation. He further points out that the applicants have already withdrawn an amount of Rs.68,69,643/- that was deposited in this Trial Court. Therefore, Mr. Chillarge urges to reject the Civil Application.

5. Heard both the sides.

6. It is undisputed that upon scrutinizing evidence on record and applying judicial mind, the learned Trial Court has arrived at a conclusion to enhance compensation in favour of the applicants in respect of the acquisition of their agricultural land. Today, the award stands in favour of the applicants. The amount deposited by the acquiring body remains in the bank. It is in nobody's interest that the amount be left pending. Pertinently, even the acquiring body has not deposited the entire amount of compensation as was directed by this Court yet.

7. In these circumstances, I feel it appropriate to pass the following order :-

ORDER

- a. Civil Application stands allowed.
- b. Applicants are permitted to withdraw the amount deposited by the acquiring body in this Court subject to furnish usual undertaking to the satisfaction of the learned Registrar (Judicial) of this Court.
- c. Needless to mention that the permitted withdrawal shall be together with the interest accrued thereon.

CIVIL APPLICATION NO. 3638 OF 2025

1. This is an application seeking condonation of delay for 2080 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 substantial portion of the Award in the Court which is even withdrawn by the claimant side. 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.

a. Delay of 2080 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.

7. After registration of the First Appeal, issue notice to the respondents. Mr. Dande, learned AGP waives service of notice for respondent no.2/State. Mr. Pawar h/f. Mr. Kale, learned counsel waives service of notice for respondent Nos.1a to 1i and 2.

[AJIT B. KADETHANKAR, J.]

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