



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

**CIVIL APPLICATION NO. 10242 OF 2025
IN FAST/26190/2025 (DELAY)**

The Executive Engineer Irrigation Department Strengthening
Division Omerga District Osmanabad

VERSUS

Shrimant Hiranappa Mule And Ors

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Mr. P. P. Mandlik h/f Mr. M. S. Kulkarni, Advocate for
Applicant

Mr. S. V. Hange, AGP for Respondents-State

Mr. S. N. Patil, Advocate for Respondent no.1

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WITH

**CIVIL APPLICATION NO. 10243 OF 2025
IN FAST/26190/2025 (STAY)**

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CORAM : AJIT B. KADETHANKAR.

DATED : 20TH SEPTEMBER, 2025

ORDER :-

CIVIL APPLICATION NO. 10242 OF 2025 IN FAST/26190/2025 (DELAY)

. This is an application seeking condonation of delay of 2324 days occurred in challenging the judgment and award dated 16.01.2019, passed by the learned Joint Civil Judge, Senior Division, Osmanabad in Land Acquisition Reference No.376 of 2014.

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 2324 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.26190 OF 2025

. Issue notice to the respondents. Learned AGP waives service of notice for respondent nos.2 and 3. Learned Advocate Mr. S. N. Patil waives service of notice for respondent no.1.

2. Call Record and Proceeding.

CIVIL APPLICATION NO. 10243 OF 2025 IN FAST/26190/2025 (STAY)

. This is an application seeking stay to the execution and operation of the judgment and award dated 16.01.2019, passed by the learned Joint Civil Judge, Senior Division, Osmanabad in Land Acquisition Reference No.376 of 2014.

2. Mr. P. P. Mandlik h/f Mr. M. S. Kulkarni, learned Advocate appearing for the Acquiring Body submits that the appeal consists good ground of merits and the learned Trial Court has granted exaggerated amount taking departure to the evidence that was placed on record. He would further submit that execution and operation of the judgment and award impugned in the appeal be stayed till final disposal of this appeal. He further submits that the Acquiring Body is ready to deposit the payable award amount together with

accrued interest in this Court within a period of six weeks from today.

3. Mr. S. N. Patil places his no objection for staying the executing and operation of the judgment and award impugned in this appeal provided that the appellant shall deposit entire payable award amount together with accrued interest in this Court within 12 weeks from today.

4. In view of above submissions, I pass following order:

ORDER

a. Civil Application stands allowed.

b. The execution and operation of the judgment and award impugned in the present appeal stands stayed for 12 weeks provided that appellant/applicant shall deposit the entire payable award amount in this Court within six weeks from today.

(AJIT B. KADETHANKAR, J.)