



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

955 CIVIL APPLICATION NO. 10507 OF 2025 (withdrawal of amount)
IN FAST/27881/2023

Pandhari Jaywanta Dalve Died His Lrs
VERSUS
The State Of Maharashtra,
Through The Collector, Osmanabad And Ors.

Mr.L.C.Patil, Advocate for applicants
Mr.S.V.Hange, AGP for respondent nos.1 and 2
Mr.S.P.Sonpawale, Advocate for respondent no.3

WITH
CIVIL APPLICATION NO. 11576 OF 2023 (Delay Condonation)
IN FAST/27881/2023

WITH
CIVIL APPLICATION NO. 11577 OF 2023 (for Stay)
IN FAST/27881/2023

CORAM : AJIT B. KADETHANKAR, J.
DATE : SEPTEMBER 25, 2025

ORDER :-

C.A. for condonation of delay:-

This is an application for condonation of delay caused in filing appeal by the acquiring body against the judgment and award dated 23.10.2021, passed by learned Jt. Civil Judge, Senior Division, Osmanabad, in LAR No.236 of 2020.

2. The applicants/appellants submit that they are public/Government body and there are various processes in filing an appeal in the court. That, the administrative exigency in obtaining various approvals as also requisite funds/court fees consumes much time, which results into such delay. The applicants further submit that the delay caused in filing the appeal is neither deliberate nor willful nor outcome of any lethargy on the part of any authority. That, valuable interest/right of the applicant/appellant are involved in the matter. The applicants/appellants are the custodian of the funds. It is further submitted that for the reasons stated above, the applicants seek condonation of delay with a prayer to adjudicate the appeal on its merits.

3. Per contra, the respondents, vehemently, oppose the application and submits that this is an attempt to harass the respondents. The respondents further submits that for the lapses and latches of the applicants/appellants, the respondents must not suffer. With this, the respondents seek rejection of the application.

4. Upon having heard both the parties, I am of the considered view that the administrative exigencies, as explained by the applicants, generally do result in delay in filing the First Appeals.

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.

5. 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. 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.

6. 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. 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.

7. 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.

8. Hence I pass following order:-

(i) The delay of 461 days in filing the First Appeal stands condoned. The application stands allowed.

(ii) The Registry to register the appeal, subject to removal of the office objections, if any, by the applicants/appellants.

(iii) Appeal is admitted. Mr.L.C.Patil, learned counsel, waives notice for the respondent - sole. Call Record and Proceedings.

C.A. for stay:-

9. Since the acquiring body has deposited the entire award amount, pursuant to the directions of this court while granting stay to the execution and operation of the impugned judgment and award, the stay granted earlier is made absolute. The application stands allowed and disposed of accordingly.

C.A. for withdrawal of amount:-

10. This application is filed by the claimants, seeking withdrawal of the deposited amount in this court. Learned counsel for the claimants would submit that the award has been passed by learned reference court in their favour. He would refer to the order passed by this court on 20.09.2025 in Civil Application No. 10248 of 2025 with connected matters. He would submit that in those matters, the applicants therein were permitted to withdraw 75% of the deposited amount, on furnishing undertaking to the satisfaction of learned Registrar (Judicial) and on furnishing solvent security/surety for 25% of the amount. Learned counsel for the

claimants submits that the cited matters arise out of the same land acquisition proceedings and award, which is the subject matter of the present application and appeal. He would submit that the grounds of appeal raised in the cited appeals and the present one are also the same. Hence, he prays for allowing the applicants herein to withdraw the amount on the principle of parity.

11. Since the cited order was passed upon hearing both sides and as the learned counsel for the acquiring body in the instance case, agrees to this position, I deem it appropriate to pass the following order:-

- a. Civil Application is partly allowed.
- b. Applicants are permitted to withdraw 50% of the deposited amount, on furnishing usual undertaking and further 25% amount, on furnishing solvent surety/security to the satisfaction of learned Registrar (Judicial) of this Court.
- C. Civil Application stands disposed of.

[AJIT B. KADETHANKAR, J.]

KBP