



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

**CIVIL APPLICATION NO. 10023 OF 2025
IN FAST/28260/2023**

Dagdabai Manikchand Phulpagar Since Seceased Through Lrs
Mangilal Manikchand Phulpagar

VERSUS

Municipal Corporation Aurangabad And Anr

...

Mr. P. V. Mandlik, Sr. Adv. i/b Mr. P. P. Mandlik, Advocate for
Applicant

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

Mr. A. P. Bhandari, Advocate for Respondent no.1

...

WITH

CIVIL APPLICATION NO. 13194 OF 2023 IN FAST/28260/2023

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CIVIL APPLICATION NO. 13195 OF 2023 IN FAST/28260/2023

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CORAM : AJIT B. KADETHANKAR.

DATED : 20TH SEPTEMBER, 2025

ORDER :-

CIVIL APPLICATION NO. 10023 OF 2025 IN FAST/28260/2023

1. Heard Mr. A. P. Bhandari, learned Advocate appearing for the Municipal Corporation, Aurangabad/appellant in the First Appeal and Mr. P. V. Mandlik, Senior Advocate i/b Mr. P. P. Mandlik, learned Advocate appearing for the original claimants/applicants in Civil Application.

2. Feeling dissatisfied with the judgment and award dated 26.09.2022, passed by the learned Civil Judge, Senior Division and Corporation Court, Aurangabad in Land Acquisition

Reference No.22 of 2012 (Old L.A.R. No.51 of 1998), the appellant/Municipal Corporation has lodged the present First Appeal in this Court.

3. It is not in dispute that pursuant to the stay granted by this Court to the execution and operation of the judgment and award impugned in the First Appeal, this Court vide its order dated 13.06.2025 has stayed execution and operation of the impugned judgment and award thereby calling upon the Municipal Corporation to deposit 75 percent of the award amount in this Court.

4. Mr. A. P. Bhandari, learned learned Advocate for the Municipal Corporation submits that such 75 percent of the total awarded amount is deposited by the Corporation in this Court together with accrued interest therein.

5. Mr. P. V. Mandlik, learned Senior Advocate submits that the entitlement of the claimants is adjudicated by the learned Reference Court by appreciating the entire evidence on record and considering the facts of the case. Mr. Mandlik would further submit that whatever defence the Corporation/appellant had, it was thoroughly placed by the corporation during the trial in the reference proceeding. He would further submit that their property has been compulsorily acquired by

the by the Municipal Corporation, Aurangabad and yet the Corporation has disputed over the entitlement of the claimants as to the realistic valuation of the acquired property. With this submission, Mr. P. V. Mandlik, learned Senior Advocate for the claimants prays to allow the applicants to withdraw the entire amount deposited by the appellant/Corporation in this Court.

6. Upon having heard both the parties, I am of the considered view that entitlement of the claimants is examined and appreciated by the learned Reference Court after going through the entire evidence on record as well as considering defence of the appellant/Corporation. Today the award stands in favour of the claimant. The amount so deposited by the Municipal Corporation i.e. 75 percent of the total awarded amount is pending in the bank and it is in nobody's interest that the amount be kept pending in the bank. Hence, I pass following order:

ORDER

- a. Civil Application is partly allowed.
- b. Applicants are permitted to withdraw 75 percent of the total deposit made by the

Corporation on furnishing usual undertaking and 25 percent of the balance amount on furnishing solvent surety/security to the satisfaction of the Registrar (Judicial) of this Court.

c. Civil Application stands disposed of.

CIVIL APPLICATION NO. 13194 OF 2023 IN FAST/28260/2023 (DELAY)

. Heard both the parties.

2. There is delay of 197 days caused in filing the present First Appeal by the Municipal Corporation.

3. Mr. A. P. Bhandari, learned Advocate appearing for the appellant/Municipal Corporation submits that the delay is not deliberate nor out of any lethargy on any part of authority. He would further submit that it is not an attempt to protract any legal proceeding or to frustrate the right of the respondents/claimants. Mr. Bhandari submit that the delay is caused due to administrative exigencies and that right or interest of the claimant is also secured by the act of corporation by depositing at least 75 percent of the awarded amount in this Court. With this Mr. A. P. Bhandari prays to condone the delay and register the appeal for being heard on merits.

4. Mr. P. V. Mandlik, learned Senior Advocate i/b Mr. P. P. Mandlik, learned Advocate for claimants placed his objection to the delay condonation. He would submit that the Corporation in such case ought to have been vigilant on the point of filing the appeal. He further submits that particularly when the parties like claimant whose property has acquired and they have been deprived to get adequate compensation, the public bodies like Corporation ought to have taken better care and the appeal should not have been delayed. He further submits that the delay seems to have arisen due to negligence by the authorities. With this, Mr. P. V. Mandlik, learned Senior Advocate prays to reject the application.

5. Upon having heard both the parties, I am of the considered view that the applicant/corporation has made out a case for condonation of delay. The reasons given for condonation of delay are well explained in the Civil Application. Considering the grounds mentioned in the Civil Application, the case is fully covered by the guidelines set 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.

6. 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.

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

ORDER

- a. Civil Application is allowed.
- b. Delay of 197 days caused in filing present First Appeal stands condoned.
- c. Registry to register the First Appeal subject to removal of all office objections, if any, within two weeks.
- d. Civil Application stands disposed of.

FIRST APPEAL ST.

- . Heard.
2. Admit.
3. Issue notice to the respondents. Mr. P. P. Mandlik, learned Advocate waives service of notice for respondent no.1. Learned AGP waives service of notice for respondent-State.
4. Call Record and Proceeding.

CIVIL APPLICATION NO. 13195 OF 2023 IN FAST/28260/2023 (STAY)

. In view of the interim order passed by this Court on 28.03.2025, learned Senior Advocate Mr. P. V. Mandlik i/b Mr. P. P. Mandlik, learned Advocate for the claimants pointed out that on 28.03.2025, a statement/submission was made by the applicant/appellant that for the time being, the Corporation would deposit 75 percent of the amount of compensation as awarded by the learned Reference Court. He would further submit that accepting that submission, the stay was granted. Mr. Mandlik, learned Senior Advocate would submit that the judgment and award impugned in the present First Appeal is nothing but a money decree in the First Appeal, particularly while seeking stay to the execution and operation to the judgment and award impugned, the appellant must deposit the entire monetary liability i.e. settled by the learned Trial Court.

2. Mr. A. P. Bhandari, learned Advocate for the applicant/appellant would however submit that the part of 25 percent which is now prayed to be deposited by the claimants is highly disputed by the Corporation on good merits. Mr. Bhandari would submit that if the balance portion is also deposited, it will take away the right of the

appellant/Corporation which the Corporation want to emphasize in the First Appeal.

3. Considering arguments of both sides of the parties, I feel it appropriate to direct the Corporation to deposit the balance 25 percent of the amount together with interest in this Court within period of 16 weeks from today and it is ordered accordingly. This amount shall however be deposited in fixed deposit and its disbursement would be subject to the decision in the First Appeal.

4. In view of above consideration, Civil Application for stay is allowed in terms of prayer clause 'B'.

5. Civil Application is disposed of.

(AJIT B. KADETHANKAR, J.)