



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

**60 CIVIL APPLICATION NO. 10278 OF 2025 (for delay)
IN FAST/27973/2025**

The Executive Engineer, Irrigation Department Strengthening Division Omerga Taluka
Omerga Dist Osmanabad
VERSUS
Raghunath Gunda Jadhav And Others

Mr.G.B.Rajale, Advocate for applicant
Mr.S.S.Dande, AGP for respondent State
Mr.L.C.Patil, Advocate for claimant

WITH
CIVIL APPLICATION NO. 10279 OF 2025 (for stay)
IN FAST/27973/2025
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CORAM : AJIT B. KADETHANKAR, J.
DATE : SEPTEMBER 22, 2025

ORDER :-

Feeling aggrieved by the judgment and award dated 06.08.2022, passed by learned Jt. Civil Judge, Senior Division, Osmanabad, in LAR No.314 of 2016, the acquiring body has preferred the First Appeal. There is delay of 1046 days in lodging the First Appeal. Hence, this Civil Application is filed seeking condonation of delay.

2. Heard Mr.Rajale, learned counsel for the applicant; learned AGP for respondent no.1 and Mr.L.C.Patil, learned counsel for respondent nos.2 and 3.

3. Mr.L.C.Patil, learned counsel for claimant, fairly expressed his no objection for condonation of delay.

4. Upon having heard both the parties, I am of the considered view that the administrative exigencies as explained by the applicant 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.

6. 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.

7. 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 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.

8. 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.

9. Hence I pass following order:-

(i) The delay of 1046 days in filing the First Appeal stands condoned. The application stands allowed.

(ii) The Registry to register the appeal.

In Appeal Stamp :-

10. Admit. Learned AGP for respondent/State and Mr.L.C.Patil, learned counsel for respondent/claimants, waive notice.

11. The matter be listed after service of notice is complete. In the meantime, appellants shall take recourse to Chapter II of the Bombay High Court Appellate Side Rules, 1960, corresponding to the position of the matter.

Application for Stay:-

12. Feeling aggrieved by the judgment and award dated 06.08.2022, passed by learned Jt. Civil Judge, Senior Division,

Osmanabad, in LAR No.314 of 2016, the acquiring body has preferred the First Appeal.

13. Mr.Rajale, learned counsel for the applicant/appellant, submits that the appellant as good case on merit. The reference court has granted enhancement ranging from 13 to 13 times, which has resulted into exorbitant award. Mr.Rajale, learned counsel, would further submit that in other matters, arising from the same land acquisition proceedings and the award, this court has stayed execution and operation of the judgment and award impugned therein.

14. Mr.L.C.Patil, learned counsel for the claimant, accepts the factual position, as narrated by learned counsel for the appellant.

15. Hence, the order:-

(i) The execution and operation of the impugned judgment and award is stayed, till disposal of the appeal, subject to deposit of the entire award amount together with interest in this court by the acquiring body within a period 12 weeks from today. Failure to deposit deposit of such amount within the given time, shall automatically vacate the stay granted today.

- (ii) The Civil Application stands disposed of.

[AJIT B. KADETHANKAR, J.]

KBP