



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

**CIVIL APPLICATION NO. 6606 OF 2016
IN
FIRST APPEAL STAMP NO. 32157 OF 2015**

Sunderabai Sahebrao Bhalke .. Applicant

Versus

The State of Maharashtra and another .. Respondents

Shri H. B. Nandagawale, Advocate for the Applicant.
Shri S. M. Ganachari, A.G.P. for the Respondent No. 1.
Shri Sanjay V. Munde, Advocate for the Respondent No. 2.

CORAM : SHAILESH P. BRAHME, J.

CLOSED FOR ORDERS ON : 24.03.2025
ORDER PRONOUNCED ON : 28.03.2025

FINAL ORDER :

. Applicant is praying for condonation of delay of 642 days caused in filing present first appeal challenging judgment and award dated 25.10.2013 passed by the Reference Court in L. A. R. NO. 233 of 2010. First appeal is for enhancement of compensation.

2. Learned counsel for the applicant submits that applicant was not aware of judgment and award dated 25.10.2013. Belatedly in the year 2015 she got the knowledge of the same. The acquiring body did not deposit the amount in time and

applicant was unable to receive the amount. For want of funds, it was not possible for her to approach High Court immediately. She had to make necessary arrangements. Learned counsel submits that reasons assigned in the application are bonafide. He would submit that she has good case on merits and her appeal deserves to be decided on merits. It is further submitted that the applicant is ready to forego interest for the delayed period.

3. Per contra, learned counsel for the acquiring body submits that the applicant is not diligent in prosecuting the matter. The delay is inordinate and explanation is not convincing. It is submitted that application was filed on 27.10.2015 and it was not prosecuted further. It was circulated for the first time on 18.07.2018 that too when her counsel remained absent. On couple of occasions it was adjourned as none was present for the applicant. On 06.09.2018 the order of issuance of notice was passed after hearing the applicant. If this is the manner in which the appeal is being prosecuted, then applicant is not entitled for the interest or the statutory benefits for the period of 642 days. He would submit that if the delay is condoned that would amount to undue enrichment.

4. I have gone through the contents of the civil application. The applicant has explained the delay in para Nos. 2 and 4. There is no material on record to infer that the reasons assigned by her are malafide and false. She being agriculturist is entitled

to receive leniency. The delay of 642 days needs to be condoned so that her appeal can be dealt with on merits.

5. Applicant is ready to forego interest and statutory benefits for delayed period of 642 days. Whereas, acquiring body claims deprivation of the interest and benefits for more than delayed period. The roznama of the appeal shows that application with appeal was filed on 27.10.2015 and was not circulated upto 18.07.2018. There is no explanation for this deep slumber, which is of considerable duration.

6. When the matter was circulated for 18.07.2018, the lawyer was absent and matter was posted to 01.08.2018. On 01.08.2018, the applicant sought adjournment and it was kept on 16.08.2018. On 16.08.2018 again nobody for applicant/appellant was present and it was adjourned to 06.09.2018. On 06.09.2018 first order was passed, issuing notice to the respondent No. 2. Thus from 27.10.2015 till 06.09.2018 the lapses or delay is attributable to the applicant. She is not entitled to derive any benefit of this period in form of interest or statutory benefit. Thereafter, again no steps were taken to circulate the civil application from 13.02.2019 till 11.03.2025. The applicant cannot take any benefit of inaction for this period also.

7. I am inclined to condone the delay, but applicant will have to forgo interest and statutory benefits of 642 days and additionally from 27.10.2015 to 06.09.2018 and 06.12.2019 to

11.03.2025. In case if the applicant succeeds in the first appeal, she will be disbursed the compensation from the public exchequer. I, therefore, pass following order.

O R D E R

- i) The civil application is allowed partly.
- ii) The delay of 642 days caused in preferring first appeal hereby stands condoned with a direction to the office to register first appeal.
- iii) The applicant shall not be entitled to interest and the statutory benefits for 642 days and additionally from 27.10.2015 to 06.09.2018 and 06.12.2019 to 11.03.2025 in case compensation is enhanced.
- iv) The civil application is disposed of.

[SHAILESH P. BRAHME J.]

bsb/March 25