



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

CIVIL APPLICATION NO. 8053 OF 2025 (for withdrawal of amount)
IN FAST/31888/2023

Vithalsingh Mahasingh (Died)
Through L.Rs Kondabai Vithalsingh Dongarjal And Others
VERSUS
The Executive Engineer, Nandur Madhmeshwar Canal, Vaijapur

Mr.M.B.Ubale, Advocate for applicants
Mr.R.B.Deshpande, Advocate for respondent no.1

WITH
CIVIL APPLICATION NO. 13622 OF 2023 (for Delay Condonation)
IN FAST/31888/2023

WITH
CIVIL APPLICATION NO. 13623 OF 2023 (for Stay)
IN FAST/31888/2023

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

ORDER :-

C.A. for Condonation of Delay:-

This is an application filed by the acquiring body for condonation of delay of 535 days in filing the First Appeal, challenging the judgment and award dated 28.01.2020, rendered by learned Jt. C.J.S.D., Vaijapur, in LAR No.264/2010.

2. The applicant/appellant submits 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 applicant further submits 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 applicant/appellant is the custodian of the funds. It is further submitted that for the reasons stated above, the applicant seeks condonation of delay with a prayer to adjudicate the appeal on its merits.

3. Per contra, the respondent/s, vehemently, oppose/s 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 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. 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 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.

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 535 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 applicant/appellant. On registration, issue notice to the respondents. Mr. M.B.Ubale, learned counsel, waives notice for respondent nos.1-A to 1-B and learned AGP waives notice for respondent nos.2 and 3.

(iii) The matter be listed after service of notice is complete. In the meantime, applicant/appellant shall take recourse to Chapter II of the Bombay High Court Appellate Side Rules, 1960, corresponding to the position of the matter.

C.A. for Stay:

9. As the acquiring body has deposited 75% of the award amount together with interest accrued thereon, in view of the order passed by 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 disposed of accordingly.

C.A. for withdrawal of amount:-

10. This application is filed by the claimants for withdrawal of amount deposited by the acquiring body. Learned counsel for the claimants submits that the claimants have lost their properties in the compulsory acquisition and were granted inadequate compensation. Learned reference court has rightly enhanced the compensation and held the claimants to be entitled for the same. He prays for permission to withdraw the amount deposited by the acquiring body.

11. Per contra, learned counsel for the acquiring body opposes the application and submits that valuable rights of the appellant are involved in the appeal and if the amount is ordered to be withdrawn, the purpose of appeal would be frustrated.

12. Having heard learned counsel for both sides, I am of the considered view that today, the award stands in favour of the applicants. Their entitlement has been assessed by the reference court after considering the evidence on record. It is a matter of fact that while securing say to the execution and operation of the impugned judgment and award, the appellant has been directed to deposit only 75% of the award amount. It reveals that the right and interest of the appellant has already been taken care of by the court.

13. Hence, I pass the following order:-

(i) The applicants - claimants are permitted to withdraw the entire amount deposited by the acquiring body, on furnishing undertaking to the satisfaction of learned Registrar (Judicial). The applicants - claimants shall, additionally, submit solvent security/surety for 25% amount out of such withdrawal, to the satisfaction of learned Registrar (Judicial) of this court.

- (ii) The application stands disposed of accordingly.

[AJIT B. KADETHANKAR, J.]

KBP