



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 15609 OF 2024
IN
FIRST APPEAL (St.) NO. 23903 OF 2024

Vithabai Guna @ Gunya Katkari
Since deceased Thr. Legal Heirs and Others. ...Applicants.

Versus

The Special Land Acquisition
Officer (MI) Raigadd and Another. ...Respondents.

Ms. Deepa Punde i/b Sachin Punde for the Applicant/Appellant.
Ms. Leena Patil for the Respondent No. 2.
Mr. A. R. Patil, AGP for the Respondent-State.

Coram : Sharmila U. Deshmukh, J.
Date : May 7, 2025.

P. C. :

1. Interim Application has been preferred seeking condonation of delay of 5 years and 6 days caused in preferring Appeal.
2. Learned Counsel appearing for the Applicant submits that the judgment and award was passed on 4th May 2019 and the certified copies were applied on 11th January 2024 and were received on 23rd January 2024. She would further submit that as the Applicants were not aware of the legal procedure and due to lack of funds, the first Appeal could not be preferred within time. She would further submit that the Applicant belongs to the scheduled tribe and did not have

necessary funds till 12th February 2024. She submits that after the compensation amount was received on 12th February 2024, the present Appeal came to be filed, however, there is delay.

3. *Per contra*, learned Counsel appearing for the Respondent No.2 would oppose the Application and would submit that Appeal was required to be filed within a period of 90 days and in event of filing of Appeal beyond the prescribed period of limitation, the Applicant has to show sufficient cause which prevented them from approaching the Court within time. She submits that there is no sufficient explanation for delay and same should not be condoned.

4. I have considered the submissions and perused the record.

5. The Applicants who are original Claimants had prosecuted the reference proceedings diligently and therefore it cannot be accepted that the Applicants were unaware of the legal procedure even if they belong to scheduled tribe. Further, though the judgment and award was passed on 4th May 2019, Application for certified copy was made only on 11th January 2024. There is no reason in the Application for the delay in applying for certified copies. Though an attempt has been made to put forth the reason of covid pandemic for delay, it is well known that the Courts were partially functioning and nothing prevented the Applicants from applying for certified copies within time. Further, the delay is substantial delay of 5 years and 6 days and

the only reason put forth is the lack of monetary funds. Even if the said explanation is accepted, the State / Acquiring Body cannot be saddled with interest for default on the part of Applicants in taking timely steps for the purpose of filing Appeal.

6. In the light of above, in my opinion, the delay can be condoned subject to an undertaking being filed by the Applicants that they will not claim interest on the enhanced amount of compensation, if any, and statutory amount, for the period of delay in filing Appeal, i.e., 5 years and 6 days. Undertaking to be filed in this Court within a period of 12 weeks from today.

7. Interim Application is allowed subject to the undertaking being filed as stated above.

8. List the First Appeal on **3rd September 2025**.

[Sharmila U. Deshmukh, J.]