



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CIVIL APPLICATION [CAF] NO.1748 OF 2023

IN

FIRST APPEAL ST. NO.13606 OF 2020

[Sukhdeo Gyanaba Atole .vs. Executive Engineer, Minor Irrigation Division, Washim and one]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri K.J. Topale, Adv. h/f Shri S.S. Gaikwad, Adv. for Applicant.
Shri M.A. Kadu, Advocate for Respondent No.1.
Shri H.D. Futane, AGP for Respondent No.2.
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CORAM : PRAVIN S. PATIL, J.

DATED : SEPTEMBER 04, 2025.

1. By this application, applicant is seeking condonation of delay of 1237 days caused in filing the First Appeal, challenging the judgment and order (Award) dated 2.5.2017 passed by the learned Civil Judge, Senior Division, Washim in L.A.C. No.145/2012.

2. It is stated by the applicant that by way of accompanying appeal, he is seeking enhancement to the claim which is granted by the reference court. The applicant seeks condonation of delay of 1237 days by stating the reason that applicant being a poor farmer was not well-versed with the legal proceeding and its consequences. Furthermore, he is not having a source of income and, therefore, the delay of 1237 days is caused in the matter.

3. It will be profitable to refer the judgment of Hon'ble Supreme Court of India in case of ***New Okhla Industrial Development Authority .vs. Rameshwar @ Ramesh Chandra Sharma (Dead) through legal heir and another, reported in 2022 (16) Scale 653***, wherein in Para 5.3 and 6 observed as under :

“5.3 However, at the same time the acquiring body and the beneficiary of acquisition shall not be saddled with the liability of statutory benefits and the interest which may be available under the [Land Acquisition Act, 1894](#) for the delayed period. In the present case the delay of 22 years can be said to be a substantial delay. However, as the claimants are held to be entitled the enhanced amount of compensation, in the facts and circumstances of the case, the High Court can be said to be justified in condoning the delay. However, at the same time, the High Court has erred in awarding other statutory benefits and interest for the delayed period. To saddle with the liability to pay statutory benefits and interest for the delayed period upon the beneficiary/acquiring body would be a financial burden upon the public body and it may increase the project cost which shall be against the public interests. It cannot be disputed that the liability towards the statutory benefits and the interest under the Act, 1984 would be a huge liability considering the interest at the rate of 15% per annum, solatium, price rise etc. Therefore, while condoning the delay and enhancing the amount of compensation at par with other land owners, the High Court ought not to have saddled the liability upon the appellant to pay statutory benefits and the interest payable under the [Land Acquisition Act, 1894](#) for the delayed period. To the aforesaid extent the

impugned common judgment and order passed by the High Court is required to be modified and the present appeals are required to be partly allowed to the aforesaid extent.

6. *In view of the above and for the reasons stated above all these Appeals Succeed in part. The impugned common judgment and order passed by the High Court passed in respective appeals is hereby partly allowed to the aforesaid extent denying the statutory benefits and the interest which may be payable under the [Land Acquisition Act, 1894](#) for the period between the judgment and award passed by the Reference Court i.e. 15.12.1993 till the respective first appeals were filed after curing the defects. Meaning thereby the original land owners/claimants shall not be entitled to any statutory benefits including the interest payable under the [Land Acquisition Act, 1894](#) on the enhanced amount of compensation for the period between 15.12.1993 till the respective first appeals after curing the defects were filed.”*

4. The learned counsel for the applicant fairly stated that he will not claim any statutory benefits of the period of delay of 1237 days, in case this court reached to the conclusion to enhance the compensation amount.

5. The learned counsel for the respondent, considering the legal position laid down by the Supreme Court of India, fairly stated that on such condition he has no objection to condone he delay.

6. Hence, the application is allowed. It is made clear that appellant will not be entitled for any interest as well as

any consequential statutory benefits for the period of 1237 days in case his appeal is allowed by this Court.

7. The application stands disposed of.

(PRAVIN S. PATIL, J.)

Gulande