



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

CIVIL APPLICATION (CAO) NO. 599 OF 2024
IN
MISC. CIVIL APPLICATION (ST) NO. 24267 OF 2017
IN
FIRST APPEAL STAMP NO. 20288 OF 2013
(Diwakar Wasudeorao Dehankar & Anr. V/s The State of Maharashtra & Ors.)

Office Notes, Office Memoranda of Coram,
Appearances, court's orders or directions and
Registrar's orders

Court's or Judge's orders

Mr. N. R. Saboo, Advocate for Applicants/Appellants.
Mr. M. A. Kadu, AGP for Respondent Nos.1 & 2.

CORAM : ROHIT W. JOSHI, J.
DATE : JANUARY 27, 2025.

. The First Appeal (St) No. 20288 of 2013 was preferred by the Applicants/Appellants in order to challenge the Judgment and Award dated 14/8/2013 passed by the learned Civil Judge Senior Division, Wardha in Land Acquisition Case No. 646/2007. Registration of the said Appeal was refused vide order dated 21/1/2014 passed by the learned Registrar (Judicial) of this Court.

2. Being aggrieved by the said order, Misc. Civil Application (St) No. 24267/2017 is preferred by the Applicants, however, since the said Misc. Civil Application is not filed within the prescribed period of limitation, another Application bearing Civil Application (CAO) No. 599/2024 is filed seeking condonation of delay in filing restoration application.

3. The reason for seeking condonation of delay is that the Applicants were under impression that the registered Clerk of the Advocate had removed all the Office objections. It is contended that for the fault of the Advocate or his Clerk, the Appellants should not be made to suffer.

4. Mr. Kadu, the learned AGP fairly concedes that he has no objection for condonation of delay and restoration of Appeal. However, he submits that the land acquisition Award impugned in the Appeal is passed on 14/8/2013 and the Appeal will be considered effectively for hearing only after is restored. He states that there is an inordinate delay in the matter of around eleven years and four months. He, therefore, submits that the Appellants should be deprived of interest and statutory benefits for the intervening period.

5. The First Appeal arises out of land acquisition proceedings. The Appellants are entitled to just and adequate compensation for the acquired land. In such circumstances, it will be appropriate, in the interest of justice, to hear the Appeal on merits. The delay caused in filing Misc. Civil Application (St) No. 24267/2017 is, therefore, condoned.

6. The question about depriving the Appellants of interest and other benefits on account of delay is kept open and shall be considered at the time of hearing of the Appeal.

7. As regards Misc. Civil Application (St) No. 24267/2017, the same is erroneously filed as Misc. Civil Application. It ought to have been filed as Civil Revision

Application under Chapter V Rule 6 of the Bombay High Court Appellate Side Rules, 1960. The Office is directed to register Misc. Civil Application appropriately as Civil Revision Application.

8. For the reasons mentioned above, the order dated 21/1/2014 passed by the Registrar (Judicial) of this Court is quashed and set aside. The Office is directed to register First Appeal.

9. The Examination-Sheet of the Registry shows that there is delay of two days in filing the Appeal. Office to re-examine the issue of delay caused, since according to the learned Counsel for Appellants there is no delay. If the Appeal is filed beyond limitation, the learned Counsel for the Appellants is at liberty to move an application seeking condonation of delay.

10. Put up the Appeal on 14th February, 2025.

(ROHIT W. JOSHI, J.)