



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

CIVIL APPLICATION (CAO) NO.296.2025 IN
MCA (REVIEW) APPLICATION ST. NO.15339/2025 IN
FIRST APPEAL NO.89/1995

Mohd. Shabbir Shaikh Aziz (dead) thr. LR's Vs. State of Maharashtra,
represented by the Collector, Yavatmal and another

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

Court's or Judge's orders

Shri V.N. Patre, Advocate for applicants
Shri A.M. Ghogre, AGP for respondents/State
Shri M.A. Kadu, Advocate for respondent No.3

CORAM : PRAVIN S. PATIL, J.

DATE : 12.02.2026

1. The applicants filed present application for condonation of delay of 4854 days in filing review application of the judgment and order dated 03.04.2009, passed by this Court in First Appeal No.89/1995.

2. Applicants submitted that they being poor agriculturists, could not engage the Counsel in the appeal filed by respondent/State before this Court. As a result, this Court reversed the judgment of Reference Court. The same was modified by order dated 03.04.2009. The same was came to their knowledge first time in the year 2010.

3. It is further stated that initially, the elder brother of the applicant was looking after the matter. However, he expired on 30.09.2012. After his death, the applicants were

unaware about the matter. Hence, they could not file the application for review before this Court within time.

4. It is further stated that after death of Mohd. Shabbir Sheikh Aziz, mother of applicants Bismillabai Sheikh Aziz was looking after the matter. However, she also expired on 15.12.2021.

5. The applicants till Summer, 2024, did not take any action in the matter. However, in the summer 2024, the son of respondent No. 6 was at the village Digras, and during the discussion, they came to know that land of their maternal uncle and mother was acquired under the project of submergence of the Arunavathi Project and meager amount was awarded by this Court. In identical matters, this Court has enhanced the compensation, therefore, they contacted the advocate practising at the Hon'ble Supreme Court for filing the appeal. The said Counsel advised them to file the review application before this Court. As such, they have approached before this Court and filed the present review application and thereby there is a delay of 4854 days.

6. After filing the application for condonation of delay, the applicant realised that there are certain incorrect statements made in the application for condonation of delay. Therefore, he has moved Civil Application No.1083/2025 and thereby requested to delete the first

sentence from paragraph No.4 of the delay application whereby it is stated that “*applicants inadvertently and due to lack of knowledge did not engage the Counsel before the Hon’ble High Court.*”

7. The respondents have strongly opposed the application for condonation of delay by filing their reply. It is specifically submitted that after issuance of notices in First Appeal, the claimants were represented by the Counsel since 05.07.1996. This Court granted stay to the judgment directing the respondents to deposit Rs.1,00,000/-. So also, the application for withdrawal of amount was filed, which was decided on 11.01.1996.

8. The respondents specifically pointed out that they have moved the application for early hearing bearing Civil Application No.6029/2006, which was decided by this Court on 28.09.2006 and thereafter, the matter was kept for final hearing. As such, this matter was taken up and decided by this Court. Hence, it is the submission of the present respondents that applicants were aware of the proceedings pending before this Court and they cannot state that they were unaware of the judgment and, therefore, the delay is caused in filing the review application.

9. The applicant has relied upon the certain judgments of Hon’ble Supreme Court particularly

i) ***Imrat Lal and others Vs. Land Acquisition Collector and others reported in (2014) 14 SSC 133,***

ii) ***Suresh Kumar Vs. State of Haryana and ors. reported in 2025 All SCR 1258,***

iii) ***Ningappa Thotappa Angdae (dead) through legal representatives Vs. Special Land Acquisition Officer and another, reported in (2020) 19 SCC 599*** and others.

10. The submission of the applicant is that this Court should take liberal view while condoning the delay in the case where the applicants are agriculturalists and their lands have been acquired and awarded the less compensation. He has specifically relied upon the paragraph No.11 of the judgment ***Imrat Lal and others*** (supra), wherein the Supreme Court has observed as under:

“11. We can take judicial notice of the fact that the villagers in our country are by and large illiterate and are not conversant with the intricacies of law. They are usually guided by their co-villagers, who are familiar with the proceedings in the courts or the advocates with whom they get in touch for redressal of their grievance. Affidavits filed in support of the applications for condonation of delay are usually drafted by the advocates on the basis of half-baked information made available by the affected persons. Therefore, in the acquisition matters involving claim for award of just compensation, the court should adopt a liberal approach and either grant time to the party to file a better affidavit to explain delay or suo motu take cognizance of the fact that large number of other similarly situated persons who were affected by the determination of compensation by the Land Acquisition Officer or the Reference Court have been granted relief.”

11. Learned Counsel for the respondents have strongly opposed the application and relied upon the judgment of the Hon'ble Supreme Court in the case ***Pathapati Subba Reddy (D) by Lrs. and others Vs. Special Deputy Collector, reported in (2024) 12 SCC 336***, wherein the Hon'ble Supreme Court has laid down certain principles, while considering the application for condoning the delay, which reproduced as under:

“26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:

(i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;

(ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;

(iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;

(iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;

(v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary

in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;

(vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;

(vii) Merits of the case are not required to be considered in condoning the delay; and

(viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.

*29. The other decision relied upon in this regard is the case of **Imrat Lal & Ors. vs. Land Acquisition Collector & Ors., (2014) 14 SCC 133**. In this case also the matter was regarding determination of compensation for the acquired land and there was a delay of 1110 days in filing the appeal for enhancement of compensation. Despite findings that no sufficient cause was shown in the application for condoning the delay, this Court condoned the delay in filing the appeal as a large number of similarly situate persons have been granted relief by this Court.*

*30. The aforesaid decisions **Imral Lal** (supra) would not cut any ice as imposition of conditions are not warranted when sufficient cause has not been shown for condoning the delay. Secondly, delay is not liable to be condoned merely because some persons have been granted relief on the facts of their own case. Condonation of delay in such circumstances is in violation of the legislative intent or the express*

*provision of the statute. Condoning of the delay merely for the reason that the claimants have been deprived of the interest for the delay without holding that they had made out a case for condoning the delay is not a correct approach, particularly when both the above decisions have been rendered in ignorance of the earlier pronouncement in the case of **Basawaraj** (supra).*

12. From the judgment of the Hon'ble Supreme Court **Pathapati Subba Reddy (D) by Lrs. and others** (supra), it is clear that the Hon'ble Supreme Court has specifically held that the law of limitation is based upon the public policy that there should be an end to the litigation by forfeiting the right to remedy rather than right itself. It is also held that merely, same persons obtained relief in similar matters, it does not mean that others are also entitled to the same benefit, if the Court is not satisfied with the reasons given for the delay in filing the appeal. In such circumstances, merits of the case are not required to be considered in condoning the delay.

13. In the present case, after going through the application for condonation of delay, the only reason given by the applicant is that Mohd. Shabbir Sheikh Aziz was looking after the matter and thereafter, his mother was looking after the matter. As both are expired, the applicants were not aware as to what steps they are required to be taken in the matter. From the record, it is clear that Mohammed Shabbir Sheikh Aziz was expired on

13.09.2012 and mother is expired on 15.12.2021. The judgment delivered by this Court is of dated 03.04.2009. As such, it is clear that till 2012 or upto 2021, both were in existence but did not take any steps in the matter, nor any efforts seen to be taken by them to approach before this Court to file the review application. Hence, this submission made by the applicants, cannot be accepted in the matter.

14. The applicants further stated that they initially went to the Advocate at New Delhi to take advice and to file the proceedings against the order of this Court. But said Advocate suggested them to file the review application before this Court. However, the applicants did not disclose in their application the name of Advocate to whom they approached nor the dates are given when they went Delhi. As such, this half-baked statement cannot be accepted particularly when the delay is inordinate in filing review application.

15. In the present matter, it is also pertinent to note that for the land acquired under the submergence of Arunavati Project, applicants were received amount of compensation of Rs.10,76,391/-. There only grievance is that the Reference Court deducted 1/3rd amount towards development charges. And this aspect was not considered by this Court while deciding the appeal and thereby reduced the compensation from Rs.3,50,000/- to Rs.2,40,000/- per hectare.

16. During the course of hearing, it is brought to my notice that under the same project, many landowners approached before this Court, challenging the judgment of Reference Court. This Court in most of the cases which were decided during 2009 upto date decided many cases and market rate determined in the present case was made applicable to those cases by applying the rule of parity.

17. As such, in my opinion, considering the submission of applicants in the matter will directly affect many those cases, which are decided by this Court by applying the rule of parity. Hence, considering this one more reason, it is not a fit case to exercise discretion in favour of applicants in the matter.

18. Thus, considering over all factual as well as legal position in the matter, I am of the considered opinion that it is not a fit case to condone the inordinate delay of 4854 days and, therefore, the same is rejected.

19. No order as to the costs.

(PRAVIN S. PATIL J.)