

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CIVIL APPLICATION (FOR CONDONATION OF DELAY) NO. 2356 of
2025****In R/FIRST APPEAL NO. 3086 of 2025****With
R/FIRST APPEAL NO. 3086 of 2025**

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HARIBHAI GAGUBHAI**Versus****DEPUTY COLLECTOR AND SPECIAL LAND ACQUISITION OFFICER AND
REHABILITATION (IRRIGATION) & ANR.**

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Appearance:**MR KRUSHNAKANT D PATEL(10632) for the Applicant(s) No. 1****MR TEJAS P SATTA(3149) for the Applicant(s) No. 1****MS DEVANSHI PATEL, AGP for the Respondent(s) No. 1,2**

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CORAM:HONOURABLE MR. JUSTICE DEVAN M. DESAI**Date : 25/08/2025****ORAL ORDER****ORDER IN CIVIL APPLICATION:-**

1. This application is filed under Section 5 of the Limitation Act, 1963 for condonation of delay of 2449 days in preferring the First Appeal.

2. Heard learned Advocate Mr. Tejas P. Satta for the applicant and learned Assistant Government Pleader Ms. Devanshi Patel for the respondents.

3. It is contended that learned Reference Court in Land

Acquisition Reference Case No.501 of 2006 passed judgment and decree on 05.05.2018 and dismissed the LAR No.501 of 2006 *ex parte*. Applicants were not given any opportunity to present their case. It is further contended that the other claimants of the same group preferred First Appeal with an application for condonation of delay and after condoning the delay, the reference cases were remanded back to the concerned Reference Court with a direction to decide the reference cases on merits. It is further contended that applicants are ready and willing to let go and shall not claim any interest from the date of framing of issues till filing of the present appeal i.e up to 17.04.2025.

4. *Per contra*, learned Assistant Government Pleader has contended that no sufficient cause is made out to condone the delay in the application. After the other claimants received higher amount of compensation, the present applicants woke up from the slumber and filed the First Appeal. Such conduct of applicants is not bonafide. It is further contended that reasons

assigned in the application is nothing but an ill-intention on the part of the applicants to get higher amount of compensation.

5. Having considered the submissions of both the sides and having considered the averments made in the application, it appears that reference case of applicants came to be rejected for want of applicants' presence. A statement is made by learned advocate for the applicants that applicants shall not claim any interest on enhanced compensation, if any, from the date of framing of issues till 17.04.2025. The delay which has occurred in filing the First Appeal requires to be condoned by adopting a liberal and justice oriented approach. This Court has taken into consideration that the reference cases were dismissed for want of evidence and the Co-ordinate Bench of this Court has condoned delay and has remanded the reference cases to the learned Reference Court below for its fresh adjudication. The same view is required to be adopted by this Court while deciding the present application. Considering the fact that

applicants have lost their valuable land and because of their absence, they could not prove their claims for the maximum amount of compensation. Therefore, delay is condoned with a condition that claimants shall not be entitled to interest on enhanced compensation, if any, from the date of framing issues till 17.04.2025.

6. This application is allowed. Rule is made absolute.

ORDER IN FIRST APPEAL:-

1. The present First Appeal is filed under Section 54 of the Land Acquisition Act, 1894 (hereinafter referred to 'the Act') challenging the impugned judgment and decree dated 05.05.2018 passed in the Land Acquisition Reference (LAR) Case No.501 of 2006 by learned 10th Additional Senior Civil Judge, Jamnagar.

2. Heard learned Advocate Mr. Tejas P. Satta for the applicant and learned Assistant Government Pleader Ms. Devanshi Patel for the respondents.

3. With the consent and request of learned advocates for the respective parties, this matter is taken up for final hearing.

4. Learned advocate for the appellants has contended that applicants are aggrieved by the judgment and decree dated 05.05.2018 passed in the Land Acquisition Reference (LAR) Case No.501 of 2006 by learned 10th Additional Senior Civil Judge, Jamnagar in group of LAR Case Nos.498 to 505 of 2006. It is further contended that reference case came to be dismissed for default as the applicants did not remain present. It is further contended that the land of the appellants was acquired for the purpose of Minor-C Water Course of Rampar Village. The Notification under Section 4 of the Act came to be issued on 23.10.2005. The Land Acquisition Officer awarded compensation at Rs.5/- per square meteres. Since the award was meagre, appellants-land losers filed reference under Section 18 of the Act for enhancement of compensation. However, the claimants could not remain present and adduce evidence.

Learned Reference Court, in absence of evidence, dismissed the application. Against which, the First Appeal is filed. It is further contended that appellants being illiterate poor villagers, did not adduce any evidence for enhancement of compensation, the purpose of the Act would be frustrated if an opportunity is not given to the appellants. Appellants have lost their lands and livelihood in the process of acquisition. The other claimants of the same group whose reference cases were dismissed, were given an opportunity to adduce evidence by remanding back respective reference cases to learned Reference Court for its fresh adjudication.

4.1. In support of his submissions, learned advocate for the appellants has placed on record a copy of order dated 28.03.2023 passed in First Appeal No.1028 of 2023 and allied matters by the Co-ordinate Bench of this Court, which is taken on record. It is further contended that the appellants shall not claim any interest from the date of framing issues till filing of

the First Appeal on enhanced compensation, if any, awarded. Except above, no submissions are canvassed by learned advocate for the appellants.

5. *Per contra*, learned Assistant Government Pleader for the respondent-State has objected in remanding back the reference cases and contended that the appellants were fence sitters as after the First Appeals of other claimants were remanded back, the appellants, have preferred First Appeal. As no ground is made out for remand, the appeal may be dismissed. Except above, no submissions are canvassed by learned advocate for the respondent.

6. Having considered the submissions of learned advocates for the parties and more particularly, the fact which has been taken into consideration by this Court that other claimants of the same group were given an opportunity by Co-ordinate Bench of this Court by remanding back the reference cases to the learned Reference Court, the same view is required to be adopted. In the present case, it appears that the appellants remained absent after

framing of issues. Resultantly, the reference came to be dismissed for want of evidence. The purpose of the Land Acquisition Act is a benevolent legislation. Land losers who have lost their lands and livelihood in the process of acquisition, are required to be compensated by adequate compensation. The Land Acquisition Officer, in the process of determining the market value, has awarded Rs.5/- per square meteres as compensation. The appellants who claimed to be aggrieved by the award of the compensation awarded by Land Acquisition Officer is required to be given a chance to prove their case. Considering the aforesaid factual aspect, a chance is given to appellants to substantiate their claim of more compensation in the reference proceedings. However, to meet the equity, the appellants shall not be entitled to interest on any enhanced compensation, if awarded, in favour of the appellants from the date of framing of issues till 17.04.2025, the day on which, the First Appeal was filed with an application for condonation of delay.

7. Accordingly, the present First Appeal is allowed. The matter is remanded back to the concerned Reference Court by quashing and setting aside the impugned judgment and decree dated 05.05.2018 passed in the Land Acquisition Reference (LAR) Case No.501 of 2006 by learned 10th Additional Senior Civil Judge, Jamnagar.

8. In the present case, the Notification under Section 4 is of the year 2005, considering year of notification, learned reference Court shall decide the reference proceedings within a period of six months from the date of receipt of this order. Learned Reference Court shall not issue fresh notice to either parties. Both the parties shall remain present before the learned Reference Court and give full co-operation to the learned Reference Court in deciding the reference proceedings.

RINKU MALI

(D. M. DESAI,J)

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: RINKU MALI(HC01574), PRIVATE SECRETARY, at High Court of Gujarat on 25/09/2025 19:14:13