

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE SIDE JURISDICTION.
CIVIL APPLICATION NO.4334 OF 2013
IN
FIRST APPEAL (ST) NO.4060 OF 2013

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

Mr. V. S. Tadke i/b. D. D. Shinde for the Applicant
Mr. A. R. Patil, AGP for the Respondent.

CORAM : K. K. TATED, J.
DATE : APRIL 24, 2015

P.C.:

1. Heard. Though other Respondents are duly served, none for them.

2. This Application is preferred by the acquiring body for condonation of 589 days delay in filing the First Appeal challenging the judgment and award dated 20/02/2011 passed by the Reference Court in LAR No.57/2000.

3. The learned counsel for the Applicant submits that before filing the First Appeal, they have to take permission from several authorities. In that process, the delay occurred in filing the First Appeal in this court.

4. The learned counsel for the Applicant submits that in the present proceedings, the SLO issued Notification under section 4 of the Land Acquisition Act (said Act) in December 1996 for

acquiring claimant's land for the Pimpalgaon-Joga Project, Tq. Junnar, District Pune. Thereafter, the SLO, after following due process of law passed Award dated 17/04/1999 under section 11 of the said Act.

5. Being aggrieved by the said Award, the Respondent claimant preferred Reference under section 18 of the said Act claiming enhanced compensation. He submits that the Reference Court, by its Award dated 20/02/2011 awarded enhanced compensation of Rs.2,50,000/-. He submits that the Reference Court failed to consider the evidence on record and particularly, the sale instances for determining the market value of acquired land. They submit that they have good chance of success in the present matter. If the Civil Application is not granted, irreparable loss and injury will be caused to the Applicant.

6. It is to be noted that the Apex Court in the matter of ***N.Balkrishnan Vs. M. Krishnamurthy (1998) 7 SCC 123*** held that the object of fixing the time limit is not meant to destroy the rights. The law of limitation fixes a lifespan for such legal remedy for the general welfare. Paragraph Nos.11, 12 and 13 of the said judgment read thus :

11. Rules of limitation are not meant to destroy the right of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy

promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. Law of limitation fixes a life-span for such legal remedy for the redress of the legal injury so suffered. Time is precious and the wasted time would never revisit. During efflux of time newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a life span must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. Law of limitation is thus founded on public policy. It is enshrined in the maxim Interest reipublicae up sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the right of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.

12. A Court knows that refusal to condone delay would result in foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the court is always deliberate. This Court has held that the words "sufficient cause" Under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice vide Shakuntala Devi Jain v. Kuntal Kumari, 1969 SC 575 and State of West Bengal v. The Administrator, Howrah Municipality, AIR 1972 SC 749.

13. It must be remembered that in every case of delay there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of mala fides or it is not put forth as part of a dilatory strategy the court must show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time then the court should lean against

acceptance of the explanation. While condoning delay the Court should not forget the opposite party altogether. It must be borne in mind that he is a loser and he too would have incurred quite a large litigation expenses. It would be a salutary guideline that when courts condone the delay due to laches on the part of the applicant the court shall compensate the opposite party for his loss.”

7. Considering the submissions made by the learned counsel for the Applicant, averments made in the Application and the reasons disclosed in paragraph 3 of the Civil Application and the law laid down by the Apex Court, I am satisfied that the Applicant has made out a case for allowing the present Civil Application.

8. Hence, the following order:

a) Civil Application is allowed in terms of prayer clause (a) which reads thus:

a. That this Hon'ble Court be pleased to condone 589 days delay in filing the above mentioned First Appeal against the judgment and award dated 28/02/2011 passed by the learned District Judge 15 in LAR No.57/2000.

b) Civil Application stands disposed off accordingly.

JUDGE