

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL APPLICATION NO. 3928 OF 2016 IN FAST/483/2016

THE CHIEF OFFICER, MAHARASHTRA HOUSING AND AREA
DEVELOPMENT, AURANGABAD

VERSUS

MADHAV SADASHIV KHOT AND OTHERS

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Advocate for Applicants : Mr. S. G. Shembole.

AGP for Respondents No.2,3 : Mr. S. R. Yadav-Lonikar.

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CORAM : K.K. SONAWANE, J.

DATED : 04TH OCTOBER, 2017.

Order :-

Heard learned counsel for applicant- Acquiring Body and learned AGP for respondents No. 2 and 3. Despite service of notice, none appears for respondents-original claimants.

2. This is an application for condonation of 1036 day's delay caused in filing First Appeal against the impugned Judgment and Award passed by the learned Reference Court, Latur in Land Acquisition Reference No. 413 of 2003 dated 04-12-2012. According to learned counsel for applicant-Acquiring Body, the so-called delay caused for filing appeal is not intentional or deliberate, but it caused due to compliance of official process. Matter was forwarded to the legal committee for requisite directions and after obtaining legal opinion, the present appeal came to be filed at the belated stage. According to learned counsel for applicant- Acquiring Body, there was an every hope of success in the appeal. Therefore, he prayed to condone the delay.

3. Learned AGP for respondents No. 2 and 3 submits that, just and proper order be passed in the interest of justice. As referred supra, despite service of notice, none appears for respondent No.1 (original claimant). Therefore, no opportunity is received for hearing of respondent No.1 (original claimant) in this matter.

4. Admittedly, the matter pertains to the Land Acquisition Proceedings. The applicant - Acquiring Body filed present appeal on the ground that the learned Reference Court determined exorbitant market value for the land under acquisition. In view of nature of the subject matter and the reasons mentioned in the application about compliance of official process, I find it justifiable to condone the delay being a sufficient cause for the same. It is to be noted that present matter pertains to the public interest and no one individual would be affected, in case the delay is not condoned, but the public funds are at stake. It is the rule of law that while dealing with the application of condonation of delay, the liberal and pragmatic approach is required to be adopted by avoiding the pedantic approach. Therefore, I am of the opinion that there is a sufficient cause to condone the delay in this matter. Hence, the application stands allowed in terms of prayer clause (B). The so-called delay caused for filing First Appeal against impugned Judgment and Award is hereby condoned. The Registry to take requisite steps for further process.

5. On registration of appeal, issue notice of hearing of appeal at the stage of admission to the respondents, returnable on 21st November, 2017.

6. The learned AGP waives service of notice for respondents No. 2 and 3.

7. Meanwhile, call for record and proceedings from the concerned Reference Court. After compliance of procedural formalities, list the matter for admission in due course.

[K. K. SONAWANE]
JUDGE

rrd.