

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**944 CIVIL APPLICATION NO. 3022 OF 2014
IN FAST/478/2014**

MADHUKAR BHASKARRAO KULKARNI AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. Bhokarikar Madhav M.
AGP for Respondent No.1/State: Mr. S.R. Yadav

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CORAM : K.K. SONAWANE, J.

DATE : 22nd September, 2017

PER COURT :

1. Heard the learned counsel for the applicants and learned A.G.P. for respondent No.1/State. Perused the application.

2. The learned counsel for the applicants-appellants submits that the applicants - appellants will not claim statutory benefits as well as amount of interest as laid down in the Land Acquisition

Act, 1894, for the period of delay i.e. 1321 days sought to be condoned, in case of success of appeal on merit.

3. In view of the aforesaid submissions and for the reasons mentioned in the application that the applicants are rustic and illiterate persons having no knowledge about the legal procedure as well as they had a financial crisis, I find it justifiable to give reasonable opportunity to the applicants-appellants in the interest of justice to ventilate the grievances before the Appellate Forum. There is no impediment to condone the delay. There is sufficient cause to allow the application for condonation of delay. In addition, the applicants /claimants have shown their willingness/inclination that they will not claim statutory benefits as mentioned above. In such circumstances, by imposing aforesaid fetter of waiver of statutory benefits on the part of applicants-appellants, there would not be any impediment to condone the delay. The

application for condonation of delay deserves to be allowed.

4. In sequel, application stands allowed. The delay caused to present the appeal against the impugned Award stands condoned subject to condition that applicants-appellants shall not claim statutory benefits as well as amount of interest as laid down in the Land Acquisition Act, 1894 for the delayed period allowed to be condoned, in case, any enhanced compensation is awarded by this Court after adjudication of appeal on merit.

5. Pursuant to aforesaid waiver of statutory claim, the applicants-appellants shall furnish undertaking to that effect and place it on record of the appeal to enable this Court to take note of the same, while decision of the appeals on merit. Registry to take requisite steps for further process.

6. The civil application is allowed in above terms and stand disposed of.

7. Appeal be registered. After registration of the Appeal, re-issue notice to the respondents, returnable on 8th November, 2017. Learned A.G.P. waives service of notice on behalf of Respondent No.1.

8. Meanwhile call record and proceedings from the concerned Reference Court.

10. After compliance, list the Appeal for admission.

(K.K. SONAWANE, J.)