

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

**CIVIL APPLICATION NO. 4827 OF 2016
IN
FIRST APPEAL STAMP NO. 4849 OF 2016**

Rajiv Sopanrao Patil

...APPLICANT

versus

The State of Maharashtra and another

...RESPONDENTS

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Mr. H.B. Nandagavale, Advocate holding for
Mr. Vijay G. Sakolkar, Advocate for applicant
Mr. S.R. Yadav, AGP for respondent No. 1
Mr. Balaji Lipnde, Advocate holding for
Mr. Anand Chaware, Advocate for respondent No. 2

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CORAM : K.K. SONAWANE, J.

DATED : 14th SEPTEMBER, 2017.

Order :-

1. Heard the learned counsel appearing for both the parties.
2. Perused the application. The applicant-original claimant moved present application for condonation of 1300 days delay caused in preferring the appeal against the impugned Judgment and Award passed by the learned Reference Court. According to learned counsel for the applicant, present applicant-appellant is rustic and poor villager. He has no source of income other than agricultural land. He was also facing financial crises and could not manage the expenses for filing the appeal. The delay so caused in preferring the appeal is not intentional or deliberate, but it has been caused due to financial crises and lack of knowledge of procedural formalities for filing the appeal. He has every hope of success in the appeal. The learned counsel further added that applicant - appellant 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 sought to be condoned, in case of success of appeal on merit. Hence, learned counsel for applicant prayed for condonation of delay.

3. The learned counsel for Acquiring Body submits that there is inordinate delay, which has not been explained satisfactorily, therefore, the same cannot be condoned and prayed for rejection of application.

4. The learned AGP raised objection and submits that application be rejected in the interest of justice.

5. In view of the aforesaid submissions and for the reasons mentioned in the application that present applicant-appellant is rustic and poor villager and he has no source of income other than agricultural land as well as financial crises, etc., the application for condonation of delay deserves to be allowed. I find it justifiable to give reasonable opportunity to the applicant-appellant in the interest of justice to ventilate grievances before the Appellate Forum. There is sufficient cause to allow the application for condonation of delay. In addition, the applicant/ claimant has shown his willingness/ inclination that he will not claim statutory benefits as well as amount of interest as mentioned above. In such circumstances, by imposing aforesaid fetter of waiver of statutory benefits and interest amount etc. on the part of applicant-appellant, there would not be any impediment to condone the delay. The application for condonation of delay required to be allowed.

6. In sequel, application is allowed in terms of prayer clause "B". The delay caused to present the appeal against the impugned Judgment and Award stands condoned subject to condition that applicant-appellant 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 merits.

7. Pursuant to aforesaid waiver of statutory claim, the applicant-appellant 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 appeal on merit. Registry to take requisite steps for further process.

8. The civil application is allowed in aforesaid terms and stand disposed of.

Sd/-

[K. K. SONAWANE]
JUDGE

MTK