

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

CIVIL APPLICATION NO. 5455 OF 2014 IN FAST/4896/2014

SIDARAM LAXIMAN SURYAWANSHI
VERSUS
STATE OF MAHARASHTRA THR. COLLECTOR DIST. OSMANABAD & ANOTHER

...
Advocate for Applicant : Mr. G. J. Kore.
AGP for Respondent No.1 State : Mr. S. R. Yadav-Lonikar.
Advocate for Respondent No.2 : Mr. S. B. Gastgar.
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CORAM : K.K. SONAWANE, J.

DATED : 25TH SEPTEMBER, 2017.

Order :-

1. Leave to correct the title clause of the respondent.
2. Heard the learned counsel appearing for both parties. Perused the application.
3. The learned counsel for the applicant-appellant submits that the so-called delay was not intentional and deliberate, but, it was caused due to lack of legal knowledge about filing of appeal in the High Court. The applicant is old age illiterate person. He was also not keeping good health. The learned Reference Court decided petition in absence of applicant. Due to poor financial condition, applicant could not approach to this Court for filing present appeal. After procuring requisite funds for obtaining certified copies and expenses to file the appeal, the applicant has preferred the present appeal. There is an every hope of success in the appeal. In case, delay is not condoned, it will cause prejudice to the applicant, therefore, he prayed to condone the delay. Moreover, the learned counsel for applicant submits that the applicant 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.
4. Per contra, learned AGP submits that there is inordinate delay of 1036 days in filing appeal and same is not properly explained. As such, the application for condonation of delay may be rejected.

5. In view of the aforesaid submissions and for the reasons mentioned in the application that the applicant is rustic and illiterate person having no knowledge about the legal procedure as well as he had a financial crisis, I find it justifiable to give reasonable opportunity to the applicant-appellant 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 applicant/original claimant has shown his willingness that he will not claim statutory benefits as mentioned above. In such circumstances, by imposing aforesaid fetter of waiver of statutory benefits on the part of applicant-appellant, there would not be any impediment to condone the delay. The application for condonation of delay deserves to be allowed.

6. In sequel, application stand allowed. The delay caused to present the appeal against the impugned 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 merit.

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. The civil application is allowed in aforesaid terms and stand disposed of. Registry to take requisite steps for further process. Meanwhile, call for record and proceedings from the concerned learned Reference Court. After registration of appeal, same be listed in due course.

[K. K. SONAWANE]
JUDGE