

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

CIVIL APPLICATION NO. 4509 OF 2014 IN FAST/6201/2014

THE STATE OF MAHARASHTRA
VERSUS
VISHNU DHONDIBA UBALE AND OTHERS

...
AGP for Applicant : Mr. B. V. Virdhe.
...

CORAM : K.K. SONAWANE, J.

DATED : 04TH OCTOBER, 2017.

Order :-

Heard learned AGP for the applicant – State of Maharashtra. Despite service of notice, none appears for respondents-original claimants. The matter is pending since year 2014 for the issue of condonation of delay. Therefore, I prefer to proceed further for adjudication of application in absence of respondents-original claimants.

2. This is an application for condonation of 749 day's delay caused in filing First Appeal against the impugned Judgment and Award passed by the learned Reference Court in Land Acquisition Reference No. 240 of 1992 dated 30-08-2011. According to learned AGP, the so-called delay caused for filing appeal is not intentional and deliberate, but caused due to compliance of procedural formalities. Hence, he requested to condone the delay.

3. Admittedly, the matter pertains to the land acquisition proceedings. The appellant- State of Maharashtra preferred the appeal against the impugned Judgment and Award passed by the learned Reference Court on the ground that the market value determined by the learned Reference Court is exorbitant and excess in nature. The interest amount under Section 34 of the Land Acquisition Act, 1894 has also been awarded by the learned Reference Court. In view of the

nature of subject matter and the reasons mentioned in the application for compliance of procedural formalities, I do not find any impediment to condone the delay. Admittedly, the public interest is involved in the matter. In case, the delay is not condoned, no one individual would be affected, but the public funds are at stake. Therefore, in the interest of justice, I preferred to adopt liberal and pragmatic approach in favour of appellant-applicant. Moreover, the respondents-original claimants did not secure their presence in this matter, even after service of notice of the application to them. In such circumstances, application for condonation of delay caused for filing first appeal against impugned Judgment and Award passed in No. 240 of 1992 dated 30-08-2011, is hereby allowed. The so-called delay stands condoned. Accordingly, civil application stands disposed of. The Registry to take requisite steps for further process.

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

5. Meanwhile, call for record and proceedings from the concerned learned Reference Court.

[K. K. SONAWANE]
JUDGE

rrd.