

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

CIVIL APPLICATION NO. 9771 OF 2016 IN FAST/17549/2016

THE EXECUTIVE ENGINEER, IRRIGATION PROJECT MAJBUTIKARN
DIVISION, OMERGA AND OTHERS
VERSUS
DATTU BIRU CHENDKE

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Advocate for Applicant-1 : Mr. S. G. Karlekar.
AGP for Applicants No.2,3 - State/SLAO : Mr. S. R. Yadav-Lonikar.
Advocate for Respondents : Mr. A. B. Kale.

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WITH CA/9826/2016 IN FAST/6736/2016
WITH CA/9829/2016 IN FAST/6858/2016
WITH CA/9831/2016 IN FAST/6861/2016
WITH CA/9833/2016 IN FAST/6864/2016
WITH CA/9836/2016 IN FAST/6855/2016
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CORAM : K.K. SONAWANE, J.

DATED : 21ST NOVEMBER, 2017.

Order :-

Heard Mr. S. G. Karlekar, learned counsel for applicant-Acquiring Body, Mr. Yadav-Lonikar, learned AGP for The State of Maharashtra / Special Land Acquisition Officer and Mr. Kale, learned counsel for respondents-original claimants.

2. Perused the applications. This is an application for condonation of delay caused for filing First Appeal against the impugned Judgment and Award passed by learned Joint Civil Judge, Senior Division, Omerga, in Land Acquisition References filed under Section 18 of the Land Acquisition Act. According to learned counsel for applicant- Acquiring Body, delay caused for filing First Appeal is not intentional or deliberate, but it was caused due to compliance of procedural formalities. He alleged that an exorbitant compensation amount for the land under acquisition granted by the learned Reference Court, therefore, applicant – Acquiring Body is intending to agitate the same in the Appellate Forum. In case, delay is not condoned, it would cause great loss to the Acquiring Body. Hence, he prayed to condone the delay.

3. In rebuttal, learned counsel for respondent (original claimant) submits that there is inordinate delay, which has not been explained satisfactorily, therefore, the same may not be condoned.

4. Admittedly, the matters pertain to land acquisition proceedings involving public funds. It is alleged that, learned Reference Court has awarded exorbitant compensation amount in favour of respondent-original claimant. The applicant- Acquiring Body is the Government Agency. The delay has been caused due to the compliance of official process and for budgetary allocation to incur the court expenses. In such circumstances, there is no impediment to condone the delay. In case, delay is not condoned on such technical ground, no one individual would be affected, but the public interest would be at stake. Moreover, it is rule of law that, while dealing with the application for condonation of delay, the liberal and pragmatic approach is required to be adopted by avoiding pedantic approach. In such circumstances and reasons mentioned in the application, the delay caused for filing First Appeal deserves to be condoned. Accordingly, civil applications for condonation of delay stand allowed in terms of prayer clause 'A'. The delay caused in preferring the First Appeal against impugned Judgment and Award is hereby condoned. Registry to take requisite steps for further process.

5. After registration of appeal, issue notice for final hearing of appeal at the admission stage to respondent (original claimants). Mr. Kale, learned counsel waives service of notice for respondent (original claimants). Meanwhile, call for record and proceedings from the concerned Reference Court. After receipt of record and proceedings, list the matters in due course.

6. Accordingly, civil applications in above terms stand disposed of.

[K. K. SONAWANE]
JUDGE

rrd.