

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

**CIVIL APPLICATION NO. 9562 OF 2016
IN
FIRST APPEAL STAMP NO. 8556 OF 2016**

The Executive Engineer, Osmanabad
Minor Irrigation Division, Osmanabad
and others ...APPLICANTS

versus

Venkat Apparao Dalimbe ...RESPONDENT

WITH
**CIVIL APPLICATION NO. 9564 OF 2016
IN
FIRST APPEAL STAMP NO. 8702 OF 2016**

The Executive Engineer, Osmanabad
Minor Irrigation Division, Osmanabad
and others ...APPLICANTS

versus

Nilkanth Baburao Ingale and another ...RESPONDENTS

.....
Mr. Ruturaj C. Patil, Advocate for applicants
None present for sole respondent.
.....

CORAM : K.K. SONAWANE, J.

DATED : 21st AUGUST, 2017.

Order :-

1. Heard learned counsel for the applicants. Despite service of notice none appears for respondent-original claimants. The learned counsel for the applicant submits that respondent-original claimants preferred Reference Petitions under section 18 of the Land Acquisition Act, 1894 before the Reference Court, Omerga, District Osmanabad and the same were partly allowed with proportionate costs. The applicant – Acquiring body is intending to agitate findings expressed by the learned Reference Court, but there is delay in filing the appeals.

2. The learned counsel submits that the delay so caused in filing the appeals is not intentional or deliberate, but due to compliance of procedural formalities. The applicant - Acquiring Body has to take legal opinion and financial sanctions from the various departments and also procure the funds for court fees and other expenses. There are every hope of success in the matter. In case, the delay is not condoned, it would caused injustice and prejudice to the Acquiring Body.

3. Admittedly, applicant is acquiring body and Government Agency, who has taken various irrigation projects and has completed the same long back and for compliance of procedural formalities time has spent. Moreover, as referred supra, despite service no one has caused appearance on behalf of respondents-original claimants, hence, I find no impediment to condone the delay in the interest of justice. It would be just and proper to allow the applicant-Acquiring Body to approach the Appellate Forum to redress the grievances. The matter pertains to public funds, the delay deserves to be condone in the interest of justice.

4. In the light of above, for the reasons stated in the applications, the same is allowed in terms of prayer clause "B". The delay of 816 days caused in filing the first appeal against the judgment and Award passed by the learned Civil Judge, Senior Division, at Omerga, District Osmanabad bearing LAR Nos. 69 and 71 of 2010 dated 20-09-2013 is hereby condoned. The Registry to take requisite steps for further process.

5. After registration of appeals, list the same for admission hearing on 28-09-2017.

6. Call for record and proceedings.

Sd./-
[K. K. SONAWANE]
JUDGE