

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

**CIVIL APPLICATION NO. 11315 OF 2016
IN
FIRST APPEAL STAMP NO. 8647 OF 2016**

Ramgopal Gulabchand Soni
Since deceased through his L.Rs.
Ramprasad and another

...APPLICANTS

versus

The State of Maharashtra and another

...RESPONDENTS

...

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Mr. V.B. Patil, Advocate for applicants
Mr. K.D. Munde, AGP for respondent No. 1
Mr. Anil M. Gaikwad, Advocate for respondent No. 2

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CORAM : K.K. SONAWANE, J.

DATED : 11th SEPTEMBER, 2017.

Order :-

1. Heard the learned counsel appearing for both the parties.

2. Perused the application. The applicants-original claimants moved present application for condonation of 1968 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 applicants, present applicants-appellants were not aware about the Judgment and Award passed by the learned Civil Judge, Senior Division, Nilanga because the said matter was filed by their father. But, during the pendency of the reference petition, their father Shri Ramgopal Soni passed away. The applicants came to know about the impugned Judgment and Award on 25-01-2016. Thereafter, they applied for certified copies of the Judgment and Award. After procuring the certified copies of the impugned Judgment and Award, the applicant preferred present appeal, but there is delay, which is not intentional or deliberate, but caused due to lack of knowledge. They have every hope of success in the appeal. The learned counsel further added that applicants - appellants 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 applicants 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.

5. In view of the aforesaid submissions and for the reasons mentioned in the application that the present applicants-appellants are having no knowledge about the Judgment and Award passed by the learned Civil Judge, Senior Division, Nilanga because the said matter was conducted by their deceased father, the application for condonation of delay deserves to be allowed. The delay caused in filing the appeal is due to lack of knowledge, I find it justifiable to give reasonable opportunity to the applicants-appellants in the interest of justice to ventilate 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 applicants/claimants have shown their willingness/inclination that they 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 applicants-appellants, 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 applicants-appellants 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 applicants-appellants 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.

[K. K. SONAWANE]
JUDGE

MTK