

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

4 CIVIL APPLICATION NO. 5656 OF 2016
IN FAST/9423/2016

THE EXECUTIVE ENGINEER MINOR IRRIGATION DIVISION,
JALNA THR SUNIL NISHIKANT GODBO
VERSUS
SUNIL KANTILAL JAIN THR ATTORNEY MEGHRAJ UGAMRAJ JAIN

...
Advocate for Applicant : Mr. S.C. Arora
AGP for Co applicants No. 2 & 3 : Mr. S.R. Yadav
Advocate for Respondent : Mr. Mahesh R. Sonwane

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CORAM : K.K. SONAWANE, J.

DATED : 07TH DECEMBER, 2017.

Order :-

1. Heard learned counsel for the applicant - Acquiring Body as well as learned AGP for co applicants No. 2 and 3 and learned counsel for respondent - original claimant.
2. The applicant No. 1 - Acquiring Body moved the present application for condonation of delay in filing the first appeal against impugned Judgment and Award passed by the learned Reference Court in Land Acquisition References filed under section 18 of the Land Acquisition Act, 1894. According to learned counsel for the applicant-Acquiring Body, impugned Judgment and Award passed by the Reference Court is erroneous, illegal and is not as per the provisions of Land Acquisition Act, 1894. Applicant No. 1 is Body corporate having its independent entity. After procuring the funds for court fees appeal came to be filed, however, there is delay in filing the appeal. According to learned counsel for applicant, delay so caused is not intentional or deliberate, but caused due to compliance of official process.
3. The learned counsel for respondent-original claimant 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. I have given anxious consideration to the submission of both learned counsel. Considering the nature of the subject-matter and reasons mentioned in the application, I do not find any impediment to allow the application for condonation of delay. The public interest is involved into the matter. It is settled law that liberal and pragmatic approach is essential to be adopted by avoiding pedantic approach while dealing with the application for consideration of delay. Therefore, it is imperative to grant some sort of latitude to the applicant - Acquiring Body to present an appeal by condoning the delay. It would not cause any prejudice or injustice to the respondent. In contrast, it would sub-serve the purpose of substantial justice. Hence, the applications for condonation of delay deserve to be allowed. In sequel, the applications stand allowed in terms of prayer clause (B). Delay caused in filing appeal against the impugned Judgment and Award is hereby condoned. Registry to take requisite steps for registration of appeal. Civil application stands disposed of accordingly.

5. On registration of appeal, issue notice to the respondent. Mr. Sonwane, learned counsel waives service of notice for respondent.

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

7. List the appeal for admission in due course.

Sd/-

[K. K. SONAWANE]
JUDGE

MTK.