

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

923 CIVIL APPLICATION NO. 8198 OF 2016
IN
FAST/11600/2016

ARUN BALIRAM BEDRE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for the Applicant : Mr. Hanmant V. Patil
A.G.P. for Respondent-State : Mr. S.R. Yadav

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CORAM : K.K. SONAWANE, J.

DATE : 8th September, 2017

PER COURT :

1. Heard learned counsel for the applicant and learned A.G.P. for the respondent-State. Perused the application and documents produced on record.

2. Applicant moved an application for condonation of delay of 1095 days in filing First Appeal against the Judgment and Award passed by the learned reference Court in L.A.R. No. 776 of 2009.

According to the learned counsel for the applicant, the applicant is an poor agriculturist and illiterate person. He has no knowledge about the legal procedure to prefer an appeal. He is residing in remote place of Osmanabad district. In addition, the applicant/claimant has shown his willingness/inclination that he will 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 merit. As such, he prayed to condone the delay in the interest of justice.

3. Learned A.G.P. raised objection and submits that the reasons mentioned by the applicant for condonation of delay are not sufficient and considerable. It is further submitted that there is inordinate delay which has not been explained by the applicant in proper manner. Therefore, the Civil Application may be rejected.

4. In view of the aforesaid submissions and arguments advanced on behalf of both the sides, I find that there are sufficient grounds to condone the delay caused for filing the Appeal. The applicant has filed the reference petition under Section 18 of the Land Acquisition Act for determination of just and proper market value of his acquired land. It would be justifiable to give reasonable opportunity to the applicant-appellant in the interest of justice to ventilate his grievances before the Appellate Forum. As sufficient cause is shown, there is no impediment to condone the delay.

5. In sequel, application stands allowed. The delay caused to present the appeal against the impugned Award stands condoned subject to condition that applicant-appellant 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 merit.

6. Pursuant to aforesaid waiver of statutory claim, the applicant-appellant 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.

7. The civil application is allowed in aforesaid terms and stands disposed of.

8. On registration of Appeal, Appeal **Admit**. On admission, learned A.G.P. waives service of notice on behalf of respondent-State. After compliance of procedure for print etc, the appeal be listed for final hearing in due course.

(**K.K. SONAWANE, J.**)

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

2. The learned counsel for the applicants-appellants submits that the 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 appeals on merit.

3. In view of the aforesaid submissions and for the reasons mentioned in the application that the applicant is rustic and illiterate person having no knowledge about the legal procedure as well as he had a financial crisis, I find it justifiable to give reasonable opportunity to the applicant-appellant in the interest of justice to ventilate the 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 applicant/claimant has shown his willingness/ inclination that he will not claim statutory benefits as mentioned above. In such circumstances, by imposing aforesaid fetter of waiver of statutory benefits on the part of applicant-appellant, there would not be any impediment to condone the delay. The application for condonation of delay deserves to be allowed.

4. In sequel, applications stand allowed. The delay caused to present the appeals against the impugned 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 merit.

5. Pursuant to aforesaid waiver of statutory claim,

the applicants-appellants shall furnish undertaking to that effect and place it on record of the appeals to enable this Court to take note of the same, while decision of the appeals on merit. Registry to take requisite steps for further process.

6. The civil applications are allowed in aforesaid terms and stands disposed of.

4. Therefore, the delay caused in preferring Appeal stands condoned. In the result, the application is allowed in terms of prayer clause '**B**'. Registry to take requisite steps for further process. Accordingly, application stands disposed of.