

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

20 CIVIL APPLICATION NO. 7770 OF 2016
IN FAST/12528/2016

THE EXECUTIVE ENGINEER, MINOR IRRIGATION MEDIUM PROJECT,
OSMANABAD AND ORS
VERSUS
JALINDHAR MAHADEO AWATADE AND ANOTHER

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Advocate for applicant No. 1 : Mr. G.V. Rajale
AGP for applicants No. 2 & 3: Mr. S.S. Dande
Advocate for Respondents-original claimants : Mr. V.S. Bedre
h/f Mr. Estling S. Murge

...
WITH CA/7773/2016 IN FAST/12555/2016
WITH CA/7776/2016 IN FAST/12614/2016
WITH CA/7779/2016 IN FAST/12558/2016
WITH CA/7781/2016 IN FAST/12561/2016
WITH CA/7783/2016 IN FAST/12564/2016
WITH CA/7785/2016 IN FAST/12567/2016

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CORAM : K.K. SONAWANE, J.

DATED : 16th NOVEMBER, 2017.

Order :-

1. Heard learned counsel for the applicant No. 1- Acquiring Body as well as learned AGP for co applicants No. 2 and 3 and learned counsel for respondents - original claimants.

2. The applicant No. 1 - Acquiring Body moved the present applications for condonation of delay in filing the first appeals 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 appeals came to be filed, however, there is delay in filing the appeals.

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 respondents-original claimants submits that there is inordinate delay, which has not been explained satisfactorily, therefore, the same cannot be condoned and prayed for rejection of applications.

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 applications, I do not find any impediment to allow the applications 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 respondents. 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 appeals against the impugned Judgment and Award is hereby condoned. Registry to take requisite steps for registration of appeal. Civil applications stand disposed of accordingly.

5. On registration of appeals, issue notice to the respondents. Mr. Murge, learned counsel waives service of notice for respondents.

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