

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

**CIVIL APPLICATION NO. 6558 OF 2016
IN
X-OBJECTION STAMP NO. 34020 OF 2015
IN
FIRST APPEAL NO. 2688 OF 2008**

Parwatibai Sidramappa Dhumare
Since deceased through L.Rs.
Gurlingappa Sidramappa Dhumare & ors. ...APPLICANTS

versus

The State of Maharashtra and others ...RESPONDENTS
...

WITH

**CIVIL APPLICATION NO. 6549 OF 2016
IN
X-OBJECTION STAMP NO. 12894 OF 2016
IN
FIRST APPEAL NO. 1817 OF 2014**

Rukhminbai Vithal Koli ...APPLICANT

versus

The State of Maharashtra and others ...RESPONDENTS
.....

WITH

**CIVIL APPLICATION NO. 6252 OF 2016
IN
X-OBJECTION STAMP NO. 34026 OF 2015
IN
FIRST APPEAL NO. 2678 OF 2008**

Ramchandra Sidramappa Dhumare ...APPLICANT

versus

The State of Maharashtra and others ...RESPONDENTS

Mr. Vivekanand V. Ingale, Advocate for applicants
Mr. S.R. Yadav, AGP for respondents No. 1 and 2
....

CORAM : K.K. SONAWANE, J.

DATED : 6th SEPTEMBER, 2017.

Order :-

1. Heard the learned counsel appearing for both the parties.
2. Perused the applications. Learned counsel for applicants submits that applicants are poor agriculturists and illiterate persons having no knowledge about the legal procedure as well as the court proceedings. The applicants are residing separately and there was dispute amongst them in regard to apportionment of compensation amount. After the decision of the Reference Court, they approached to Advocate and they came to know about meagre compensation amount awarded by the Reference Court. They were intending to file appeal, but due to financial crises they could not file the appeal within stipulated period. The learned counsel further added 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. The learned counsel prayed to condone the delay.
3. The learned AGP raised objection and submits that respondent – State has also preferred the appeals against impugned judgment and Award of the Reference Court in the year 2014. The applicants-appellants appeared in the appeals filed by the State. All these proceedings are pending for hearing on merit. Therefore, he prayed to reject the applications.
4. I have given anxious consideration to the submissions propounded on behalf of both sides. Perused the relevant documents. Admittedly, there is colossal delay in filing the appeals on behalf of the applicants, but the State has also preferred appeals, in which issue of reasonable market value of acquired land is subjudice. In such circumstances, for the reasons mentioned in the applications that the applicants are poor agriculturists and illiterate persons having no knowledge about the legal procedure as well as the court proceedings

and financial crises, I find it justifiable to give reasonable opportunity to the applicants-appellants in the interest of justice to ventilate the grievances before the Appellate Forum. In case, opportunity is not granted to the applicants to ventilate their grievance before Appellate Forum, it would cause injustice and prejudice to them. The appeals filed on behalf of respondent - State are pending in this Court for determination of correct value of the acquired land. Moreover, the applicants/claimants have shown their willingness/ inclination that they will not claim statutory benefits as well as amount of interest as mentioned above. There is sufficient cause to allow the applications for condonation of delay. In such circumstances, by imposing aforesaid fetter of waiver of statutory benefits on the part of applicants-appellants, there would not be any impediment to condone the delay. The applications for condonation of delay deserve to be allowed.

6. In sequel, applications stand allowed in terms of prayer clause "B". The delay caused to present the appeal 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 appeals on merit.

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.

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

Sd/-

[K. K. SONAWANE]
JUDGE