

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

**CIVIL APPLICATION NO. 8242 OF 2014  
IN  
FIRST APPEAL STAMP NO. 12688 OF 2014**

Udhav Baburao Dabhade and others ...APPLICANTS

versus

The State of Maharashtra and another ...RESPONDENTS

Mr. H.B. Nandagavale, Advocate holding for  
Mr. V.G. Sakolkar, Advocate for applicants  
Mr. S.P. Sonpawale, AGP for respondents No. 1 and 2

WITH  
CIVIL APPLICATION NO. 8243 OF 2014 IN FIRST APPEAL ST. NO 12705 OF 2014  
CIVIL APPLICATION NO. 8244 OF 2014 IN FIRST APPEAL ST. NO 12701 OF 2014  
CIVIL APPLICATION NO. 8245 OF 2014 IN FIRST APPEAL ST. NO 12703 OF 2014

**CORAM : K.K. SONAWANE, J.**

**DATED : 21<sup>st</sup> AUGUST, 2017.**

**Order :-**

1. Heard learned counsel appearing for the parties. Perused the applications.
2. The learned counsel for the applicants-original claimants submits that the applicants have filed References under section 18 of the Land Acquisition Act before the learned Civil Judge, Senior Division, Ahmedpur. After appreciating the entire evidence adduced on record the learned Reference Court passed the impugned Awards in the month of October, 2010, but the applicants were not aware of the impugned Judgments and Awards. When the applicants-original claimants came to known about the decision passed by the Reference Court, they consulted the concerned Advocate, who advised them to file first

appeals before this Court. According to learned counsel, the applicants are rustic and illiterate persons having no knowledge about the legal procedure as well as they had a financial crisis, therefore, they could not present the appeals within stipulated period. Eventually, the applicants procured requisite amount for court fees and stamp papers etc. and preferred the present appeals, but there is delay in filing the appeals. The delay so caused in preferring the appeals is not intentional or deliberate, but due to poor financial condition as well as having no knowledge about the legal procedure. Moreover, the learned counsel 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 and prayed to allow the applications for condonation of delay.

3. The learned AGP for respondents raised objection and submit that reasons mentioned in the applications are not sufficient to condone the delay as contemplated under section 5 of the Limitation Act. There are no reasonable ground on record to condone the delay, therefore, he prayed to dismiss the applications.

4. I have given anxious consideration to the arguments advanced on behalf of both sides. Perused the applications and relevant documents on record. Admittedly, the matter pertains to enhancement of compensation of lands acquired by the respondents for the construction of percolation tank No. 5 at village Khandali. The claimants have also preferred the References under sections 18 of the Land

Acquisition Act, 1894 and the same were adjudicated on merits by the Reference Court, however, the applicants-claimants are not satisfied with quantum awarded by the Reference Court and market value determined for their acquired land. Hence, the claimants are intending to prefer an appeals, but there is huge delay in filing the appeals.

5. In view of the aforesaid submissions and for the reasons mentioned in the applications that the applicants are rustic and illiterate persons having no knowledge about the legal procedure as well as they had a financial crisis, 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. There is sufficient cause to allow the applications for condonation of delay. In addition, the applicants/ claimants have shown their willingness / inclination that they will not claim statutory benefits as mentioned above. 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 appeals against the impugned Awards 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 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.

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

Sd/-

**[ K. K. SONAWANE ]**  
**JUDGE**

MTK