

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

5 CIVIL APPLICATION NO. 12398 OF 2014 IN FAST/13490/2014

MALANBAI KISAN KAJAVE
VERSUS
THE STATE OF MAHARASHTRA AND ORS.

...
Advocate for Applicant : Mr. Balasaheb K. Pawar.
AGP for Respondents State : Mr. S. R. Yadav-Lonikar.
...

CORAM : K.K. SONAWANE, J.

DATED : 07TH SEPTEMBER, 2017.

Order :-

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

2. According to learned counsel for applicant, the so-called delay was not intentional and deliberate, but, it was caused due to lack of legal knowledge about filing of appeal in the High Court. The applicant is old age illiterate lady. She was also not keeping good health. The learned Reference Court decided petition in absence of applicant. Due to poor financial condition, applicant could not approach to this Court for filing present appeal. After procuring requisite funds for obtaining certified copies and expenses to file the appeal, the applicant has preferred the present appeal. There is an every hope of success in the appeal. In case, delay is not condoned, it will cause prejudice to the applicant, therefore, he prayed to condone the delay. Moreover, the learned counsel for applicant submits that the applicant 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 appeal on merit.

3. The learned AGP raised objection and submits that there is inordinate delay, which is not explained in proper manner, therefore, application be rejected.

4. After giving anxious consideration to the submission canvassed on behalf of the both sides, it appears that, matter pertains to the determination of market value of the acquired land under the Land Acquisition Act, 1894. The learned Reference Court adjudicated her applications filed under Section 18 of the Land Acquisition Act, 1894, unilaterally in her absence.

5. Considering the nature of the subject matter and reasons mentioned in the application for condonation of delay, I do not find any impediment to condone the delay. It is settled law that, liberal and pragmatic approach is essential to be adopted by avoiding pedantic approach while dealing with the application for condonation of delay. The applicant is the old age and rustic lady, residing in the remote area of Osmanabad District. There is sufficient cause to condone the delay. It would not cause any prejudice and injustice to the respondents. In contrast, it would sub-serve the purpose for substantial justice. In addition, the applicant/claimant has shown her willingness/inclination that she 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.

6. In sequel, application stands allowed. The delay caused to present the appeal against the impugned Judgment and 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.

7. 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 on 4th October, 2017.

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

[K. K. SONAWANE]
JUDGE

rrd.