

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

CIVIL APPLICATION NO. 14009 OF 2016 IN FAST/15046/2016

SAHEBRAO RAMA AMBHORE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicants : Mr. S. K. Adkine.
AGP for Respondent- State/SLAO : Mr. B. V. Virdhe.

...
WITH CA/14010/2016 IN FAST/14519/2016
WITH CA/14011/2016 IN FAST/15050/2016

...

CORAM : K.K. SONAWANE, J.

DATED : 7TH NOVEMBER, 2017.

Order :-

Heard learned counsel for applicant/s-original claimants and learned Assistant Government Pleader for respondent-Special Land Acquisition Officer. Despite service of notice, none appears for respondent- Acquiring Body.

2. According to learned counsel for applicant/s, the so-called delay caused for filing First Appeal against impugned Judgment and Award passed in Land Acquisition References under Section 18 of the Land Acquisition Act, 1894, was not intentional or deliberate, but, it was caused due to lack of legal knowledge about filing of appeal. The original claimant is illiterate person. Due to poor financial condition, applicant-original claimant 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-original claimant 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-original claimant, therefore, applicant-original claimant prayed to condone the delay. Moreover, the learned counsel for applicant/s submits that the applicant-original claimant 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 for respondent-State raised objection and submits that there is inordinate delay, which is not explained in proper manner, therefore, applications 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.

5. Considering the nature of 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 applicants are the poor agriculturist and rustic person, residing in the remote area at Pendgaon, Taluka Sillod, District Aurangabad. There is sufficient cause to condone the delay. It would not cause any prejudice and injustice to the respondents. In contrast, it would subserve the purpose for substantial justice. In addition, the applicants (original 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-original claimants, 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 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.

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 appeals on merit. The civil applications are allowed in aforesaid terms and stand disposed of. Registry to take requisite steps for further process in due course.

8. After registration of appeal, issue notice to the respondents.

9. Learned AGP waives service of notice for respondent- S.L.A.O.

10. Meanwhile, call for record and proceedings from the concerned reference Court.

[K. K. SONAWANE]
JUDGE

rrd.