

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

931 CIVIL APPLICATION NO. 6647 OF 2016
IN FAST/14846/2016 WITH CA/6636/2016 IN FAST/15036/2016 WITH
CA/6639/2016 IN FAST/15030/2016 WITH CA/6644/2016 IN FAST/15041/2016

THE EXECUTIVE ENGINEER CONSTRUCTION CENTRAL RAILWAY,LATUR
VERSUS

BABRUWAN KRUSHANA CHIKATE AND ANR

...

Advocate for Applicant : Mr. A.D. Soman
AGP for Respondent No.2: Mr. B.V. Virdhe

CORAM : K.K. SONAWANE, J.

DATE : 6th October, 2017.

PER COURT:

1] Heard learned counsel for the applicant/Acquiring Body and learned AGP for the respondent No.2. Despite service of notice, none appears for respondent No.1 original claimant.

2] Perused the application. Learned Counsel for applicant/s submits that delay is not deliberate and intentional but caused due to official procedure to present an appeal. He submits that initially, the office of the Railways, Solapur was looking after the matter, but, later on it was shifted to Pune and, therefore, there is delay in filing the present appeal. As such, he prayed to condone the delay.

3] None for the respondent No.1 despite service of notice, as such no opportunity of hearing respondent No.1 received in this application.. Learned AGP submits that just and proper orders be passed in the interest of justice.

4] I have heard the submission canvassed on behalf of applicant as well as perused the application and the impugned judgment and award against which the applicant Acquiring Body is intending to file an appeal.

5] The matter pertains to land acquisition proceedings. The learned Reference Court partly allowed the application of the respondent filed under Section 18 of the Land Acquisition Act. The applicant Acquiring Body is intending to agitate the findings recorded by the learned Reference Court on the issue of market value arrived at by the learned Reference Court, which according to Acquiring Body, is exorbitant.

6] I am of the considered opinion that reasonable opportunity needs to be given to the applicant Acquiring Body to ventilate its grievances in the appellate forum. it is to be noted that the matter pertains to the enhancement of compensation amount under the Land Acquisition Act. The appellant is the Government Agency I.e. Acquiring Body and in view of public interest, it is imperative to extend latitude while dealing with the condonation of delay, by adopting liberal and pragmatic approach. If the appeal/s of the appellant acquiring body is/are not allowed to be presented for further process on the ground of such default of delay, no person is individually affected but, ultimately, the public interest would be at stake. Therefore, I do not find any impediment to allow the applicant/ Acquiring Body to present an appeal by condoning the delay. It would not cause any prejudice or injustice to the respondent. In contrast, it would sub-serve the interest of 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 appeal against the impugned judgment and award is hereby condoned. Civil applications for condonation of delay stand disposed of.

7] Registry to take requisite steps for registration of appeal. On registration, issue notice to respondents returnable on 20th November, 2017. Learned AGP waives notice for respondent No.2.

8] At this stage, the learned counsel for the appellant seeks extension of time to deposit the decretal amount as directed by this court under order dated 6th May, 2016, while granting stay to the execution and operation of the impugned judgment and award passed by the learned Reference Court. According to learned counsel for the appellant, the process for depositing the amount is in progress and two month's time may be granted to deposit the amount and stay may be continued till then.

9] In view of the aforesaid submissions, further time period of two months is hereby allowed to the appellant for depositing the amount. Meanwhile, stay granted by this Court to continue till then.

[K.K. SONAWANE]
JUDGE.

grt/-