

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

922 CIVIL APPLICATION NO. 15126 OF 2016
IN FAST/15949/2016 WITH CA/15127/2016 IN FAST/16492/2016 WITH
CA/15128/2016 IN FAST/16531/2016 WITH CA/15129/2016 IN
FAST/16522/2016 WITH CA/15130/2016 IN FAST/16512/2016

PRAVIN NAGORAO KANDHARKAR
VERSUS
THE STATE OF MAHARASHTRA AND ANR

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Advocate for Applicants : Mr. Hanmant Bhagwan Nandagavale
AGP for Respondents: Mr. S.R. Yadav

CORAM : K.K. SONAWANE, J.

DATE : 21st September, 2017.

PER COURT:

1. Heard the learned counsel appearing for applicants, learned AGP for State. Despite service of notice, none appears for respondent No.2 Acquiring Body. Perused the applications.
2. The learned counsel for the applicants-appellants submits that the applicants-appellants are poor agriculturists residing in the remote area of Latur District. They had no knowledge about the legal procedure for filing first appeal. The impugned judgment and award was passed in the month of July, 2010 but the applicants had no knowledge about the same. They came to know about the impugned award after receipt of notice/s of first appeal filed on behalf of the respondent/State. Thereafter, the applicants contacted with the learned counsel, who advised them to file appeal. According to learned counsel, very meager amount was awarded to

the applicant. They were intending to file appeal, but there was delay, which is not intentional and deliberate but due to unavoidable circumstances.

3. Learned counsel further 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 appeal on merit.

4. 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 no impediment to condone the delay as there is sufficient cause to condone 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 application for condonation of delay deserves to be allowed.

5. In sequel, applications stand allowed. 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 appeal on merit.

6. 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.

7. The civil applications are allowed in aforesaid terms and stands disposed of.

8. On registration, re-issue notice to respondent No.2. Appeals be listed alongwith First Appeal No. 670 of 2015 and 677 of 2015 in due course.

[K.K. SONAWANE]
JUDGE.

grt/-