

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

924 CIVIL APPLICATION NO. 9102 OF 2016
IN FAST/17982/2016

THE EXECUTIVE ENGINEER, NANDUR- MADHMESHWAR CANAL
DIVISION VAIJAPUR (GODAVARI MAH
VERSUS
DAULAT BHAGAJI GAIKWAD AND ORS

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Advocate for Applicants : Mr. Vivek M. Lomte
Advocate for Respondents No. 1 & 2: Mr. M.R. Malani h/f Mr. A.B. kale
AGP for Respondent No. 3 : Mr. A.M. Phule

CORAM : K.K. SONAWANE, J.

DATED : 23RD NOVEMBER, 2017.

Order :-

1. Heard learned counsel for the applicant - Acquiring Body as well as learned counsel for respondents No. 1 and 2 - original claimants and learned AGP for respondent No. 3.

2. The applicant - Acquiring Body moved the present application for condonation of delay in filing the first appeals against impugned Judgment and Award passed by the learned Reference Court in Land Acquisition Reference filed under section 18 of the Land Acquisition Act, 1894. According to learned counsel for the applicant-Acquiring Body, impugned Judgment and Award passed by the Reference Court is erroneous, illegal and is not as per the provisions of Land Acquisition Act, 1894. Applicant is Body corporate having its independent entity. After procuring the funds for court fees appeal came to be filed, however, there is delay in filing the appeal. According to learned counsel for applicant, delay so caused is not intentional or deliberate, but caused due to compliance of official process.

3. The learned counsel for respondents-original claimants submits that there is inordinate delay, which has not been explained satisfactorily, therefore, the same cannot be condoned and prayed for

rejection of applications.

4. The learned AGP for respondent -State raised the objection and submits that suitable orders may be passed.

5. I have given anxious consideration to the submission of both learned counsel. Considering the nature of the subject-matter and reasons mentioned in the application, I do not find any impediment to allow the application for condonation of delay. The public interest is involved into the matter. It is settled law that liberal and pragmatic approach is essential to be adopted by avoiding pedantic approach while dealing with the application for consideration of delay. Therefore, it is imperative to grant some sort of latitude to 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 purpose of substantial 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 appeals against the impugned Judgment and Award is hereby condoned. Registry to take requisite steps for registration of appeal. Civil application stands disposed of accordingly.

6. On registration of appeal, issue notice to the respondents. Mr. Kale, learned counsel waives service of notice for respondents No. 1 and 2 and learned AGP waives service for respondent No. 3.

7. Meanwhile, call for record and proceedings from the concerned learned Reference Court.

8. List the appeal for admission in due course.

Sd/-
[K. K. SONAWANE]
JUDGE

MTK.