

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

31 CIVIL APPLICATION NO. 9479 OF 2014
IN FAST/17555/2014 WITH CA/9480/2014 IN FAST/17555/2014

EXECUTIVE ENGINEER, JALNA MINOR IRRIGATION DIVISION, JALNA UNDER
G.M.I.D.C. AND O
VERSUS
JIJABHAU APPA KHARAT

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Advocate for Applicants : Mr. B.R. Surwase

CORAM : K.K. SONAWANE, J.

DATE : 4th September, 2017.

PER COURT:

1] Heard learned counsel for the applicant Acquiring Body. Despite service of notice, LR's of original claimant remained absent. None caused appearance on their behalf. Matter pertains to condonation of delay in filing first appeal.

2] Heard learned counsel for the applicant/s and learned counsel for the respondent.

2] Perused the application. Learned Counsel for applicant/s submits that due to official procedure to present an appeal, delay has been caused. He submits that delay is not deliberate and intentional but caused owing to administrative compliance. As such, he prayed to condone the delay.

3] Learned counsel for the respondent raised objection and submits that delay has not been properly explained and it would be unjust and improper to condone the delay.

4] I have heard the submission canvassed on behalf of both sides and perused the application as well as 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. It has been contended that after the impugned judgment and award of the Reference Court, the Acquiring Body being an independent institution, approached to its counsel as directed by the superior officers and obtained the tentative figure of proposed expenditure for filing an appeal. The applicant Acquiring Body made necessary arrangement of finance for requisite court fees etc., and thereafter preferred the present appeal with application for condonation of delay. The impugned delay was not intentional and deliberate but owing to compliance of official process.

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 application for condonation of delay deserves to be allowed. In sequel, the application stands allowed in terms of prayer clause (B). Delay caused in filing appeal against the impugned judgment and award is hereby condoned. Registry to take requisite steps for registration of appeal and list the matter for further process on 25th September, 2017.

[K.K. SONAWANE]
JUDGE.

grt/-