

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

CIVIL APPLICATION NO. 9639 OF 2016 IN FAST/18551/2016

THE GMIDC AURANGABAD THR THE EXECUTIVE ENGINEER, MINOR
IRRIGATION DIVISION, OSMANABAD.
VERSUS
VITHAL KISAN NIKAM

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Advocate for Applicant No.1 : Mr. P. R. Tandale.
AGP for Applicants No. 2, 3 : Mr. S. R. Yadav-Lonikar.
Advocate for Respondent/s : Mr. M. R. Pawade h/f. Mr. L. C. Patil.

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WITH CA/9641/2016 IN FAST/18638/2016
WITH CA/9644/2016 IN FAST/18634/2016
WITH CA/9648/2016 IN FAST/18630/2016
WITH CA/9651/2016 IN FAST/18626/2016
WITH CA/9654/2016 IN FAST/18622/2016
WITH CA/9657/2016 IN FAST/18618/2016
WITH CA/9660/2016 IN FAST/18614/2016
WITH CA/9663/2016 IN FAST/18610/2016

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CORAM : K.K. SONAWANE, J.
DATED : 15TH DECEMBER, 2017.

Order :-

Heard learned counsel for applicant- Acquiring Body and learned counsel for respondent (original claimant) as well as learned AGP for respondents No. 2 and 3.

2. Perused the applications. Leave to correct the prayer clause.

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

4. The learned AGP for applicants No. 2 and 3 submits for suitable order in the interest of justice.

5. The learned counsel for respondent (original claimant) raised objection that there is inordinate delay, which has not been explained satisfactorily, therefore, the same cannot be condoned and prayed for rejection of applications.

6. I have given anxious consideration to the submissions advanced on behalf of both sides. Admittedly, matters pertain to the land acquisition proceedings involving public funds. The applicant- Acquiring Body is the Government Agency looking after the irrigation projects. In view of nature of the subject matter and the reasons mentioned in the application, I find that reasonable opportunity is essential to be granted to applicant- Acquiring Body to ventilate its grievance in the Appellate Forum for redressal. Therefore, delay caused for filing First Appeals is required to be condoned. Accordingly, applications for condonation of delay stand allowed in terms of prayer clause 'B'. The delay of 1064 days caused in preferring the First Appeals against impugned Judgment and Award is hereby condoned. The civil applications are disposed of in above terms accordingly. Registry to take requisite steps for further process.

7. After registration of appeals, issue notice to respondent/s (original claimant/s).

8. Mr. Pawade on instruction of Mr. L. C. Patil, learned counsel waives service of notice for respondent/s (original claimant/s).

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

10. List the appeals for admission in due course.

[K. K. SONAWANE]
JUDGE

rrd.