

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

CIVIL APPLICATION NO. 12334 OF 2014 IN FAST/19202/2014

BABU AMBAJI YAMGAR
VERSUS
THE STATE OF MAHARSHTRA AND OTHERS

...
Advocate for Applicant : Mr. V. V. Bhavthankar.
AGP for Respondents No.1,2 : Mr. S.R.Yadav-Lonikar.

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CIVIL APPLICATION NO. 12335/2014 IN FAST/20152/2014
CIVIL APPLICATION NO. 12336/2014 IN FAST/20160/2014
CIVIL APPLICATION NO. 12337/2014 IN FAST/20162/2014
CIVIL APPLICATION NO. 12338/2014 IN FAST/20156/2014
CIVIL APPLICATION NO. 12339/2014 IN FAST/20154/2014
CIVIL APPLICATION NO. 12340/2014 IN FAST/20158/2014
CIVIL APPLICATION NO. 12341/2014 IN FAST/20164/2014
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CORAM : K.K. SONAWANE, J.

DATED : 28TH SEPTEMBER, 2017.

Order :-

1. Heard learned counsel appearing for both parties. Perused the applications.
2. According to learned counsel for applicants-original claimants, the so-called delay was not intentional and deliberate, but, it was caused due to lack of legal knowledge about filing of appeal in the High Court. The original claimants are illiterate persons. The applicants-original claimants were also not keeping good health. Due to poor financial condition, applicants-original claimants could not approach to this Court for filing present appeal. After procuring requisite funds for obtaining certified copies and expenses to file the appeal, the applicants-original claimants have preferred the present appeals. There is an every hope of success in the appeals. In case, delay is not condoned, it will cause prejudice to the applicants-original claimants, therefore, applicants- original claimants prayed to condone the delay. Moreover, the learned counsel for applicants- original claimants submit that the applicants-original claimants 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.

3. The learned AGP for respondent-State raised objection and submits that there is inordinate delay, which is not explained in proper manner, therefore, application be rejected.

4. After giving anxious consideration to the submission canvassed on behalf of the both sides, it appears that, matters pertain to the determination of market value of the acquired land under the Land Acquisition Act, 1894. The learned Reference Court adjudicated their applications filed under Section 18 of the Land Acquisition Act, 1894, unilaterally in their absence.

5. Considering the nature of the subject matter and reasons mentioned in the applications for condonation of delay, I do not find any impediment to condone the delay. It is settled law that, liberal and pragmatic approach is essential to be adopted by avoiding pedantic approach while dealing with the applications for condonation of delay. The applicants are the old age and rustic persons, residing in the remote area. There is sufficient cause to condone the delay. It would not cause any prejudice and injustice to the respondents. In contrast, it would sub-serve the purpose for substantial justice. In addition, the applicants/original 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 (original claimants), there would not be any impediment to condone the delay. The applications for condonation of delay deserve to be allowed.

6. In sequel, applications stand allowed. The delay caused to present the appeal against the impugned Judgment and 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/s on merit.

7. 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 appeals on merit. The civil applications are allowed in aforesaid terms and stand disposed of. Registry to take requisite steps for further process in due course.

8. After registration of appeal, issue notice to respondents.

9. Learned AGP waives service of notice for respondent- State.

10. Meanwhile, call for record and proceedings from the concerned reference Court.

[K. K. SONAWANE]
JUDGE

rrd.