

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

**CIVIL APPLICATION NO. 7854 OF 2015
IN
FIRST APPEAL STAMP NO. 20848 OF 2014**

Sudhakar Vishwanath Gore ...APPLICANT
versus
The State of Maharashtra and another ...RESPONDENTS
.....
Mr. S.S. Halkude, Advocate for applicant
Mr. R.B. Babul, AGP for respondent No. 1
Respondent No. 2 served.
.....

CORAM : K.K. SONAWANE, J.

DATED : 23rd AUGUST, 2017.

Order :-

1. Heard the learned counsel appearing for both the parties. Perused the application. Despite service none has caused appearance on behalf of respondent No. 2.
2. The learned counsel for the applicant-appellant submits that present application is filed for condonation of 2569 days delay caused in preferring the appeal against the impugned Judgment and Award passed by the Reference Court. He added that applicants were asked not to visit to his counsel time and again till any message from him. But, the applicant did not receive any message from the counsel. However, after depositing the decretal amount by the respondent in the Court, applicant came to know about impugned Judgment and Order, in which meagre and inadequate compensation amount was determined by the Reference Court. According to learned counsel, the applicant - appellant 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. In view of the aforesaid submissions and for the reasons mentioned in the application about lack of communication and that the applicant is 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 applicant-appellant in the interest of justice to ventilate the grievances before the Appellate Forum. There is sufficient cause to allow the application for condonation of delay. In addition, the applicant/claimant has shown their willingness/ inclination that he will not claim statutory benefits as mentioned above. In such circumstances, by imposing aforesaid fetter of waiver of statutory benefits on the part of applicant-appellant, there would not be any impediment to condone the delay. The application for condonation of delay deserves to be allowed.

4. In sequel, application stands allowed in terms of prayer clause "B". The delay caused to present the appeal against the impugned Judgment and Award stands condoned subject to condition that applicant-appellant 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.

5. Pursuant to aforesaid waiver of statutory claim, the applicant-appellant 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.

6. The civil application is allowed in aforesaid terms and stands disposed of.

Sd/-

[K. K. SONAWANE]
JUDGE

MTK