

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

37 CIVIL APPLICATION NO. 11123 OF 2016
IN FAST/22205/2016

THE EXECUTIVE ENGINEER, IRRIGATION PROJECT STRENGTHENING
DIVISION OMERGA, DISTRICT OSMANABAD
VERSUS
SHIVAPPA HANUMANT BIRAJDAR AND OTHERS

...
Advocate for Applicants : Mr. Shirish S. Sangle
Advocate for respondents-original claimants: Mr. N.R. Pawade hf
Mr. L.C. Patil
AGP for respondents No. 3 & 4 : Mr. S.J. Salgare

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CORAM : K.K. SONAWANE, J.

DATED : 13th DECEMBER, 2017.

Order :-

1. Heard learned counsel for the applicant - Acquiring Body as well as learned counsel for respondents - original claimants and learned AGP for co applicants No. 3 and 4.
2. The applicant - Acquiring Body moved the present application for condonation of delay in filing the first appeal 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 application.

4. The learned AGP raised objection and submits that application be rejected.

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 application 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. Patil, learned counsel waives service of notice for respondents-original claimants and learned AGP waives service of notice for respondents No. 3 to 4.

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

8. List the appeal for admission in due course.

[K. K. SONAWANE]
JUDGE

VSM.