

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

CIVIL APPLICATION NO. 11236 OF 2016 IN FAST/22307/2016

THE EXECUTIVE ENGINEER, LATUR MINOR IRRIGATION DIVISION,
LATUR AND ANOTHER
VERSUS
SANJEEV NAMDEO MUSALE AND OTHERS

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Advocate for Applicants : Ms. Bharati B. Gunjal.

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WITH CA/11212/2016 IN FAST/22289/2016
WITH CA/11228/2016 IN FAST/22316/2016
WITH CA/11230/2016 IN FAST/22319/2016
WITH CA/11232/2016 IN FAST/22322/2016
WITH CA/11234/2016 IN FAST/22304/2016
WITH CA/11242/2016 IN FAST/22298/2016
WITH CA/11246/2016 IN FAST/22292/2016
...

CORAM : K.K. SONAWANE, J.

DATED : 12TH DECEMBER, 2017.

Order :-

Heard learned counsel for applicant No.1 Acquiring Body and learned AGP for applicant No. 2. Despite service of notice, none appears for respondents-original claimants.

2. Perused the applications. The applicant- Acquiring Body has moved present applications for condonation of delay caused in filing First Appeals against the impugned Judgment and Award passed by the learned Reference Court, Udgir, dated 21-09-2011. According to learned counsel for applicant-Acquiring Body, the so-called delay caused for filing appeal is not intentional or deliberate, but it was caused due to compliance of official process. Matter was forwarded to the legal committee for requisite directions and after obtaining legal opinion, the present appeals came to be filed at the belated stage. According to learned counsel for applicant- Acquiring Body, there was an every hope of success in the appeal. Therefore, she prayed to condone the delay.

3. Learned AGP for applicant No.2 – State of Maharashtra submits that just and proper order be passed in the interest of justice.

4. As referred supra, despite service of notice, no one has caused appearance on behalf of respondents (original claimants), therefore, opportunity is not received for hearing to them. In view of the nature of subject matter, I proceed further to adjudicate the application for condonation of delay on merit in the interest of justice.

5. Admittedly, the matters pertain to the Land Acquisition Proceedings. The applicant - Acquiring Body filed present appeal on the ground that the learned Reference Court determined exorbitant market value for the land under acquisition. In view of nature of the subject matter and the reasons mentioned in the applications about compliance of official process, I find it justifiable to condone the delay being a sufficient cause for the same. It is to be noted that present matters pertain to the public interest and no one individual would be affected, in case the delay is not condoned, but the public funds are at stake. It is the rule of law that while dealing with the application of condonation of delay, the liberal and pragmatic approach is required to be adopted by avoiding the pedantic approach. Therefore, I am of the opinion that there is a sufficient cause to condone the delay in this matter. Hence, the civil applications stand allowed in terms of prayer clause (B). The so-called delay caused for filing First Appeals against impugned Judgment and Award is hereby condoned. The Registry to take requisite steps for further process.

6. On registration of appeal, issue notice of hearing of appeal at the stage of admission to the respondents (original claimants), returnable on 22-01-2018.

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

[K. K. SONAWANE]
JUDGE

rrd.