

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

**CIVIL APPLICATION NO. 64 OF 2017
IN
FIRST APPEAL STAMP NO. 25972 OF 2016**

Godawari Marahtwada Irrigaion
Development Corporation through
the Executive Engineer & another

...APPLICANTS

versus

Ganpati S/o Sadu Rajguru

...RESPONDENT

.....
Mrs. Kalpalata Bharaswadkar, Advocate for applicants
Mr. R. V. Naiknaware, Advocate for sole respondent-original claimant

.....
WITH

CIVIL APPLICATION NO. 66 OF 2017 IN FIRST APPEAL ST.NO. 26162 OF 2016
CIVIL APPLICATION NO. 68 OF 2017 IN FIRST APPEAL ST.NO. 26156 OF 2016
CIVIL APPLICATION NO. 70 OF 2017 IN FIRST APPEAL ST.NO. 26159 OF 2016

CORAM : K.K. SONAWANE, J.

DATED : 14th SEPTEMBER, 2017.

Order :-

1. Heard learned counsel for the applicants-appellants and learned counsel for respondents-original claimants.
2. The learned counsel for the applicant-Acquiring Body submits that the applicant-Acquiring Body was not made party in the Reference Petitions filed under section 18 of the Land Acquisition Act before the learned Reference Court, Osmanabad. The original claimants ought to have made Acquiring Body as party in this matter. Therefore, the applicant - Acquiring Body had no knowledge about the impugned Judgment and Award passed by the learned Reference Court. After

getting knowledge of the impugned Judgment and Award passed by the Reference Court, the Acquiring Body is intending to prefer the appeals, but there is delay. The delay so caused in preferring the appeals is not intentional or deliberate, but it is because of due to lack of knowledge and also it caused due to compliance of official process. The learned counsel prayed for allowing the applications for condonation of delay.

3. The learned counsel for 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 applications.

4. I have given anxious consideration to the arguments advanced on behalf of both sides. We have also perused the relevant documents. Admittedly, Acquiring Body was not impleaded as party respondent in the Reference Petitions filed before the learned Reference Court at Osmanabad. Obviously, the legal infirmity for not impleading the Acquiring Body as party respondent is required to be considered at the time of final hearing of the appeals. 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, I do not find any impediment to grant some sort of latitude to the applicant- Acquiring Body to present an appeals by condoning the delay. It would not cause any prejudice or injustice to the respondents-original claimants and public interest is involved in these matters. In contrast, it would sub-serve the interest of justice. At this juncture, I find sufficient cause to condone the delay. In case, the delay is not condoned, it would cause injustice and prejudice to the

applicant-Acquiring Body. Therefore, reasonable opportunity is essential to be granted to the applicant-Acquiring body to ventilate its grievance before the Appellate Forum. In such circumstances, applications deserve to be allowed. Accordingly, the applications stand allowed in terms of prayer clause "B". The delay caused in preferring the appeals against Judgment and Awards of the Reference Court is hereby condoned. Registry to take requisite steps for further process.

5. The civil applications for condonation of delay are allowed in above terms and stand disposed of accordingly.

[K. K. SONAWANE]
JUDGE

MTK