

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

CIVIL APPLICATION NO. 72 OF 2017

IN

FIRST APPEAL STAMP NO. 27906 OF 2016

Executive Engineer,
Irrigation Project Strengthening Division
Omurga under the M.K.V.D.C. Ltd. Pune

...APPLICANT

versus

Rangnath Nivrutti Mane and others

...RESPONDENTS

WITH

CIVIL APPLICATION NO. 76 OF 2017

IN

FIRST APPEAL STAMP NO. 29692 OF 2016

Executive Engineer,
Irrigation Project Strengthening Division
Omurga under the M.K.V.D.C. Ltd. Pune

...APPLICANT

versus

Shivanand Nivrutti Mane and others

...RESPONDENTS

.....

Mr. Shirish G. Sangale, Advocate for applicant
Mr. M.B. Kolpe, Advocate holding for
Mr. S.A. Wakure, Advocate for respondent No. 1
Mr. S.R.Yadav, AGP for respondent Nos. 2 and 3

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CORAM : K.K. SONAWANE, J.

DATED : 6th SEPTEMBER, 2017.

Order :-

1. Heard learned counsel for the appearing parties.
2. The applicant moved the present applications for condonation of delay in filing the first appeals against impugned Judgment and Award passed by the learned Civil Judge, Senior Division, Osmanabad in LAR No. 237 and 236 of 2004. The Reference Court passed the impugned Judgment and Award in the month of December, 2012. According to learned counsel for the applicant, impugned Judgment and Award is erroneous, illegal and is not as per the provisions of Land Acquisition

Act, 1894. The applicant is Body corporate having its independent entity. After procuring the funds for court expenses, the appeal came to be filed. However, there is delay in filing the appeals. According to learned counsel, the delay so caused is not intentional or deliberate, but caused due to compliance of official process.

3. The learned counsel for respondents-original claimants raised objection and submits that there is inordinate delay, which has not been explained satisfactorily, therefore, the same cannot be condoned.

4. The learned AGP for respondents No. 2 and 3 submits for suitable orders in the interest of justice.

5. I have given anxious consideration to the submissions advanced on behalf of both sides. Considering the nature of the subject-matter and reasons mentioned in the application, I do not find any impediment to allow the applications for condonation of delay. The public interest is involved in these matters. In case the applications are rejected no one individual is put in loss but the public funds are at stake. It is settled law that liberal and pragmatic approach is essential to be adopted by avoiding pedantic approach while dealing with the applications for consideration of delay. Therefore, I am of the opinion that some sort of latitude is required to be granted to the applicant- Acquiring Body to present an appeals by condoning the delay. It would not cause any prejudice or injustice to the respondents. In contrast, it would subserve the interest of justice. Hence, the applications for condonation of delay deserve to be allowed. In sequel, the applications stand allowed in terms of prayer clause (B). Delay caused in filing appeal against the impugned Judgment and Award is hereby condoned. Registry to take requisite steps for registration of appeals and list the matter for further process on 26th September, 2017.

6. The civil applications are allowed in above terms and stand disposed of.

[K. K. SONAWANE]
JUDGE