

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1) CA NO.14745/2016

**18 CIVIL APPLICATION NO. 14745 OF 2016
IN FAST/27965/2016**

ASHOK EKNATH TOGE AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...
Advocate for Applicants : Mr.Gangakhedkar Shailendra S
AGP for Respondent State: Mr. C.V.Dharurkar

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CORAM : P.R. BORA, J.
Dated: July 04, 2017

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PER COURT :-

1. The original claimant has filed the present application seeking condonation of delay which has occurred in filing an appeal in exception to the judgment and award passed in LAR No.52/2005. The aforesaid Land Acquisition Reference has been dismissed by the Reference Court for the reason that the claimant did not adduce any oral or documentary evidence in order to support his claim. Mr. Gangakhedkar, learned Counsel appearing for the applicant submitted that there was communication gap between the claimants and their Counsel and, as such, the Reference Application was not properly prosecuted by the claimants. Learned Counsel submitted that even thereafter, the claimant did not take the necessary steps because they got the knowledge of dismissal of their Reference Applications too late. Learned Counsel appearing for the applicants submits that applicants undertakes not to claim any interest of the period of

agp/-

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delay caused on their part in the event they succeed in the appeal. Learned counsel, therefore, prayed for allowing the application and giving an opportunity to the applicants to agitate their matter on merits.

2. Learned A.G.P. has opposed for condonation of delay stating that the delay of huge period has not been sufficiently explained.

3. After having considered the submissions made on behalf of the learned Counsel appearing for the parties, I am inclined to allow the present application for two reasons; first, that the Reference application itself has been rejected by the Reference Court for wrong reasons and second that the applicants have undertaken not to claim interest of the period of delay so that no unnecessary burden is likely to be caused on the State even if the applicant succeeds before the Reference Court.

4. The Application is allowed. Delay caused in filing the appeal is condoned. Civil Application for condonation of delay stands disposed of. It is clarified that, as undertaken by the applicants, they will not be entitled for the interest of the period of delay in the event the amount of compensation is enhanced. Keep the copy of the present order in the appeal paper book.

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5. After registration of the appeal, issue notice to the respondents in the appeal. Learned AGP waives service for respondent no.1. Appellant to serve respondent no.2.

Place the matter for admission after four weeks.

(P.R. BORA, J.)

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