

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

13 CIVIL APPLICATION NO. 16690 OF 2016
IN FAST/27983/2016

THE EXECUTIVE ENGINEER, MEDIUM PROJECT DIVISION,
OSMANABAD THR M.K.V.D.C. PUNE AN

VERSUS

MAHADEV VISHWANATH MANDALIK AND ORS

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Advocate for Applicant : Mr. Arvind N. Gaddime

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CORAM : K.K. SONAWANE, J.

DATED : 28th NOVEMBER, 2017.

Order :-

1. When the matter is called our none appears for respondents No. 1 to 3. The record shows that notices of the application came to be served on respondents No. 1 to 3, but they did not turn up to this Court. Therefore, there is no alternative than to proceed for determination of issue on condonation of delay in this application.

2. Heard learned counsel for the applicant - Acquiring Body as well as learned AGP for co applicants No. 2 and 3.

3. The applicant No. 1 - 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 No. 1 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.

4. As referred above, respondents-original claimants remained absent, therefore, no opportunity for hearing them in the present application is received to this Court. 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 respondents. 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 application stands 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 appeal. Civil application stands disposed of accordingly.

5. On registration of appeal, issue notice to the respondents.

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

7. List the appeal for admission in due course.

Sd/-

[K. K. SONAWANE]
JUDGE

MTK.