

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

**CIVIL APPLICATION NO. 1467 OF 2013
IN
FIRST APPEAL STAMP NO. 28646 OF 2012**

Dnyanoba Dhondiram Bilapate

...APPLICANT

versus

The State of Maharashtra and another

...RESPONDENTS

.....
Mr. S.N. Patil, Advocate holding for
Mr. G.K. Sontakke, Advocate for applicant
Mr. S.R. Yadav, AGP for respondent No. 1- State
Despite service remained absent.

.....
CORAM : K.K. SONAWANE, J.

DATED : 14th SEPTEMBER, 2017.

Order :-

1. Heard learned counsel for the applicant and learned AGP for respondent No. 1 State. Despite service, none appears for respondent No. 2 Acquiring Body.

2. Perused the application. The applicant moved present application for condonation of 2042 days delay in filing the first appeal against impugned judgment and Award passed by the Reference Court in LAR No. 1385 of 2001. According to learned counsel for the applicant, the matter pertains to Land Acquisition Proceedings. The applicant is poor rustic villager and residing in remote place in Latur District. He has no any other source of income, except agricultural land. After the Award of the Special Land Acquisition Officer, the applicant filed Reference under section 18 of the Land Acquisition Act, 1894 for enhancement of compensation amount. The learned Reference Court granted very meagre amount towards compensation amount of the acquired land. Hence, the applicant is intending to file first appeal against the Judgment and Award of the learned Reference Court, but due to financial crises he could not approached to this Court within stipulated period. He has every hope of success in the appeal. In addition, the

learned counsel for applicant submits that applicant/claimant has shown their willingness/inclination that he will not claim statutory benefits as well as amount of interest as laid down in the Land Acquisition Act, 1894, for the period of delay sought to be condoned, in case of success of appeal on merit.

3. In support of his submission, learned counsel for the applicant relied upon the judgment in the case of ***Collector, Land Acquisition, Anantnag Vs. Mst. Katiji and others reported in AIR 1987 Supreme Court 353***, in which it has been held that the Court should adopt liberal approach while dealing with application for condonation of delay.

4. The learned AGP raised objection and submits that there is inordinate delay in filing the appeal and same is not explained in proper manner, therefore, he prayed for rejection of the application.

5. I have given anxious consideration to the arguments advanced on behalf of both sides. Perused the application. Admittedly, the matter pertains to Land Acquisition Proceedings. The respondent-Acquiring Body has acquired the agricultural land of the appellant for public purpose i.e. construction of Thodga Tank Tahsil Ahmedpur. After Award of the SLAO, applicant preferred reference under section 18 of the LA Act for enhanced compensation. Learned Reference Court partly allowed the application and granted very meagre compensation amount for the acquired land to the applicant-original claimant. The applicant-claimant is not satisfied with the market value determined by the Reference Court, therefore, he approached to ventilate his grievances before the Appellate Forum.

6. Considering the reasons mentioned in the application as well as residence of the applicant in remote place of Latur district, I do not find any impediment to condone the delay. I also find it justifiable to give reasonable opportunity to the applicant-appellant in the interest of justice to ventilate grievances before the Appellate Forum. 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. There is no impediment to condone the delay. In addition, the applicant/ claimant has shown his willingness /inclination that they will not claim statutory benefits as well as amount of interest as mentioned above. In such circumstances, by imposing aforesaid fetter of waiver of statutory benefits and interest amount etc. on the part of applicants-appellants, there would not be any impediment to condone the delay. The application for condonation of delay required to be allowed.

7. In sequel, application is allowed in terms of prayer clause "B". The delay caused to present the appeal against the impugned Judgment and Award stands condoned subject to condition that applicant-appellant shall not claim statutory benefits as well as amount of interest as laid down in the Land Acquisition Act, 1894 for the delayed period allowed to be condoned, in case, any enhanced compensation is awarded by this Court after adjudication of appeal on merits.

8. Pursuant to aforesaid waiver of statutory claim, the applicant-appellant shall furnish undertaking to that effect and place it on record of the appeal to enable this Court to take note of the same, while decision of the appeal on merit. Registry to take requisite steps for further process.

9. On registration of appeal, issue notice to respondents. Learned AGP waives service of notice for respondent No. 1. After procedural formalities, list the appeal for final hearing at the admissions stage.

10. The civil application is allowed in aforesaid terms and stand disposed of.

Sd/-

[K. K. SONAWANE]
JUDGE