

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

CIVIL APPLICATION NO. 13579 OF 2016
IN FAST/28995/2016

THE EXECUTIVE ENGINEER, IRRIGATION PROJECT, MAJBUTIKARAN
DIVISION, OMERGA THR SIN
VERSUS
NAGNATH BHAIRU GODASE AND OTHERS

...
Advocate for Applicant : Mr. Ruturaj C. Patil.
Advocate for Respondents No.1 to 3 : Mr. L. C. Patil.
AGP for Respondents No.4 and 5 : Mr. S. R. Yadav-Patil.
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CORAM : K.K. SONAWANE, J.

DATED : 28TH SEPTEMBER, 2017.

Order :-

Heard learned counsel for applicant and learned counsel for the respondents-original claimants No. 1 to 3 as well as learned AGP for the respondents No. 4 and 5- State.

2. This is an application for condonation of delay for filing First Appeal against impugned Judgment and Award passed by the Civil Judge, Senior Division, Osmanabad. According to learned counsel for applicant- Acquiring Body, the so-called delay caused is not intentional or deliberate, but owing to compliance of official process. After impugned Judgment and Award, applicant has to obtain legal opinion from the concerned Department as well as get sanction of requisite budgetary allocation for court proceedings, and thereafter, presented First Appeal. After due compliance, applicant filed present appeal. But, there is delay caused in filing appeal. Hence, he requested to condone the delay.

3. Learned counsel for the respondents-original claimants raised objection and submits that delay has not been properly explained, same may not be condoned.

4. I have considered the submission advanced on behalf of both sides. Perused the application. Admittedly, matter pertains to land acquisition proceedings involving public funds. According to applicant, learned Reference Court has awarded exorbitant compensation amount towards market value for the acquired land in favour of respondents-original claimants. In view of nature of the subject matter and the reasons mentioned in the application, I do not find any impediment to condone the delay. In case, the delay is not condoned, no one individual is going to affect, but the public funds are at stakes. Hence, I prefer to allow the application. Accordingly, application for condonation of delay stands allowed in terms of prayer clause 'A'. The delay caused in preferring the First Appeal against impugned Judgment and Award is hereby condoned. Registry to take requisite steps for further process.

5. After registration of appeal, issue notice to the respondents-original claimants. Mr. L. C. Patil waives service of notice for respondents-original claimants No. 1 to 3. Learned AGP waives service of notice for respondents No. 4 and 5. Meanwhile, call for record and proceedings from the concerned Reference Court. After receipt of record and proceedings, list the matter for further process on 9th November, 2017.

[K. K. SONAWANE]
JUDGE

rrd.