

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

929 CIVIL APPLICATION NO. 14729 OF 2016
IN FAST/29661/2016
JIJABAI DNYANESHWAR SURASE
VERSUS
THE STATE OF MAHARASHTRA AND ORS

Advocate for Applicant : Ms. Sunita Sonawane h/f Mr. D.R. Jayabhar
AGP for Respondents No. 1 and 2 : Mr. S.R. Yadav
Advocate for Respondent No. 3 : Mr. P.G. Rodge -Absent

CORAM : K.K. SONAWANE, J.

DATED : 05TH OCTOBER, 2017.

Order :-

1. Heard the learned counsel appearing for both the parties.
2. Perused the application. The applicant-original claimant moved present application for condonation of 1415 days delay caused in preferring the appeal against the impugned Judgment and Award passed by the learned Reference Court. According to learned counsel for the applicant, the delay caused in filing the appeal is not intentional or deliberate, but it caused due to financial crises. She has every hope of success in the appeal. The learned counsel further added that applicant - appellant 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. Hence, learned counsel for applicant prayed for condonation of delay.
3. The learned AGP submits that there is inordinate delay, which has not been explained satisfactorily, therefore, the same cannot be condoned and prayed for rejection of application.
4. In view of the aforesaid submissions and for the reasons mentioned in the application that the delay so-called in filing the appeal is not intentional or deliberate, but caused due to financial crises, thus the application for condonation of delay deserves to be allowed. I find

it justifiable to give reasonable opportunity to the applicant-appellant in the interest of justice to ventilate grievances before the Appellate Forum. There is sufficient cause to allow the application for condonation of delay. In addition, the applicant / claimant has shown her willingness / inclination that she 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 applicant-appellant, there would not be any impediment to condone the delay. The application for condonation of delay required to be allowed.

5. 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.

6. 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.

7. On registration of appeal, issue notice to respondents, returnable on 16th November, 2017. Learned AGP waives service of notice on behalf of respondents No. 1 and 2.

8. Meanwhile, call record and proceedings.

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

Sd/-
[K. K. SONAWANE]
JUDGE

mtk.