

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

**CIVIL APPLICATION NO. 78 OF 2017
IN
FIRST APPEAL STAMP NO. 29686 OF 2016**

Executive Engineer,
Irrigation Project Strengthening Division
Omerga under the M.K.V.D.C. Ltd. Pune

...APPLICANT

versus

Gangadhar Nivrutti Mane and others

...RESPONDENTS

.....
Mr. Shirish G. Sangale, Advocate for applicant
Mr. S.R.Yadav, AGP for respondent Nos. 2 and 3
.....

CORAM : K.K. SONAWANE, J.

DATED : 6th SEPTEMBER, 2017.

Order :-

1. Heard learned counsel for the applicant-Acquiring Body as well as learned AGP for respondents No. 2 and 3. Despite service of notice none appears for respondent-original claimant.
2. The applicant moved the present application for condonation of delay in filing the first appeals against impugned Judgment and Award passed by the learned Civil Judge, Senior Division, Osmanabad in LAR No. 235 of 2004. The Reference Court passed the impugned Judgment and Award in the month of December, 2012. According to learned counsel for the applicant, impugned Judgment and Award is erroneous, illegal and is not as per the provisions of Land Acquisition Act, 1894. The applicant is Body corporate having its independent entity. After procuring the funds for court expenses, the appeal came to be filed. However, there is delay in filing the appeal. According to learned counsel, the delay so caused is not intentional or deliberate, but caused due to compliance of official process.

3. The learned AGP for respondents No. 2 and 3 submits for suitable orders in the interest of justice.

4. As referred above, respondent-original claimant remained absent, therefore, no opportunity for hearing him 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 in this matter. In case the application is rejected no one individual is put in loss but the public funds are at stake. 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, I am of the opinion that some sort of latitude is required to be granted 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 interest of justice. Hence, the application for condonation of delay deserves 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 and list the matter for further process on 26th September, 2017.

5. The civil application are allowed in above terms and stand disposed of.

Sd/-

[K. K. SONAWANE]
JUDGE

MTK