

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

23 CIVIL APPLICATION NO. 1177 OF 2017
IN FAST/29785/2016

EXECUTIVE ENGINEER, IRRIGATION PROJECT STRENGTHENING
DIV.,OMERGA(NOW UNDER THE M.
VERSUS
MAHATEMA BAPURAO ULLEKAR AND ORS

...
Advocate for Applicant : Mr. Shirish G. Sangle
AGP for Respondents No. 2 and 3 : Mr. S.S. Dande

...
WITH
CIVIL APPLICATION NO. 1179 OF 2017 IN FAST/29792/2016
CIVIL APPLICATION NO. 1181 OF 2017 IN FAST/29796/2016

CORAM : K.K. SONAWANE, J.

DATED : 16th NOVEMBER, 2017.

Order :-

1. Heard learned counsel for the applicant - Acquiring Body as well as learned AGP for respondents No. 2 and 3. Despite service, no one has caused appearance on behalf of respondents - original claimants.
2. The applicant - Acquiring Body moved the present applications for condonation of delay in filing the first appeals against impugned Judgment and Award passed by the learned Reference Court in Land Acquisition References 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 is Body corporate having its independent entity. After procuring the funds for court fees appeals came to be filed, however, there is delay in filing the appeals. According to learned counsel for applicant, delay so caused is not intentional or deliberate, but caused due to compliance of official process.

3. The learned AGP for respondents-State authorities submits that there is inordinate delay, which has not been explained satisfactorily, therefore, the same cannot be condoned and prayed for rejection of applications.

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 applications, I do not find any impediment to allow the applications 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 respondent. In contrast, it would sub-serve the purpose of substantial justice. Hence, the applications for condonation of delay deserve to be allowed. In sequel, the applications stand allowed in terms of prayer clause (B). Delay caused in filing appeals against the impugned Judgment and Award is hereby condoned. Registry to take requisite steps for registration of appeal. Civil applications stand disposed of accordingly.

5. On registration of appeal, issue notice to the respondents, returnable on 19-12-2017. Mr. Dande, learned counsel waives service of notice for respondents No. 2 and 3.

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

Sd/-

[K. K. SONAWANE]
JUDGE

MTK