

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
7 CIVIL APPLICATION NO. 266 OF 2017
IN FAST/29854/2016 WITH CA/267/2017 IN FAST/29979/2016 WITH
CA/285/2017 IN FAST/29856/2016 WITH CA/288/2017 IN FAST/28991/2016
WITH CA/323/2017 IN FAST/33983/2016

JIJABAI BABULAL BANKAR
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...

Advocate for Applicant : Mr. Vitthal B. Wayal
AGP for Respondents: Mr. B.V. Virdhe

CORAM : K.K. SONAWANE, J.
DATE : 15th September, 2017.

PER COURT:

1. Heard the learned counsel appearing for both the parties. Perused the applications.
2. The learned counsel for the applicants-appellants submits that the applicants - appellants 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. Per contra, learned AGP submits that there is inordinate delay of about 1270 days in filing the appeal and same is not properly explained. As such, the application for condonation of delay may be rejected.
4. In view of the aforesaid submissions and for the reasons mentioned in the applications that the applicants are rustic and illiterate persons having no knowledge about the legal procedure as well as they had a financial crisis, I find it justifiable to give reasonable opportunity to the applicants-appellants in the interest of justice to ventilate the grievances before the Appellate Forum. There is no impediment to condone the delay.

There is sufficient cause to allow the applications for condonation of delay. In addition, the applicants/claimants have shown their willingness/inclination that they will not claim statutory benefits as mentioned above. In such circumstances, by imposing aforesaid fetter of waiver of statutory benefits on the part of applicants-appellants, there would not be any impediment to condone the delay. The application for condonation of delay deserves to be allowed.

5. In sequel, applications stand allowed. The delay caused to present the appeal against the impugned Award stands condoned subject to condition that applicants-appellants 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 merit.

6. Pursuant to aforesaid waiver of statutory claim, the applicants-appellants 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. The civil applications are allowed in aforesaid terms and stands disposed of. Matter to come up for hearing on admission in due course.

[K.K. SONAWANE]
JUDGE.

grt/-