

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

28 CIVIL APPLICATION NO. 14667 OF 2016
IN FAST/29971/2016

ANKUSH BHAGWAT KAPSE .. APPLICANT.
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER .. RESPONDENTS.

...
Advocate for Applicant : Mr. Estling S. Murge.
AGP for Respondent State : Mr. S. R.Yadav-Lonikar.
...

CORAM : K.K. SONAWANE, J.

DATED : 13TH SEPTEMBER, 2017.

Order :-

1. Heard the learned counsel appearing for both the parties. Perused the application.
2. The learned counsel for the applicant-appellant submits that the 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.
3. Per contra, learned AGP submits that there is inordinate delay of 1648 days in filing 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 application that the applicant is rustic and illiterate persons having no knowledge about the legal procedure as well as he had a financial crisis, I find it justifiable to give reasonable opportunity to the applicant-appellant 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 application for condonation of delay. In addition, the applicant/claimant has shown

his willingness/ inclination that he will not claim statutory benefits as mentioned above. In such circumstances, by imposing aforesaid fetter of waiver of statutory benefits on the part of applicant-appellant, there would not be any impediment to condone the delay. The application for condonation of delay deserve to be allowed.

5. In sequel, application stands allowed. The delay caused to present the appeal against the impugned 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 merit.

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. After registration of appeal, same be listed for hearing in due course.

7. The civil application is allowed in aforesaid terms and stands disposed of.

[K. K. SONAWANE]
JUDGE

rrd.