

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1)

CA NO.14664/2016

**17 CIVIL APPLICATION NO. 14664 OF 2016
IN FAST/30082/2016**

ARUN KADU AKOLKAR
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...
Advocate for Applicant : Mr.Pahune Patil Nandkishor J.
AGP for Respondent State: Mr. S.P.Sonpawale

...
CORAM : P.R. BORA, J.
Dated: July 04, 2017

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PER COURT :-

1. The applicant has filed the appeal taking exception to the judgment and award passed by the Court of Civil Judge, Senior Division, Aurangabad, on 17th of January, 2013 in LAR No.503/2005 along with other Land Acquisition References. Since some delay has been caused in filing the appeal, the present application is filed seeking condonation of delay. As is stated in the application, delay caused is of 1258 days. Shri Pahune Patil, learned Counsel appearing for the applicant, submitted that after the house property of the present applicant was acquired, he left the village where he was residing and could not remain in touch with his Counsel for giving further instructions. Learned Counsel submitted that in such circumstances, the Reference Application so filed by the present applicant has been rejected for want of evidence. Learned Counsel submitted that, in fact, the Reference Court could not have dismissed the Reference on the said count.

agp/-

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(2)

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Learned Counsel submitted that in such circumstances, the delay caused in filing the appeal shall be condoned.

2. In the application itself, applicant has undertaken not to claim interest of the period of delay in case the amount of compensation is enhanced. Though in the application for condonation of delay the usual grounds are raised like lack of funds to pay the Court fee, drought situation, etc., I deem it appropriate to condone the delay for the reason that the Reference Application has been dismissed by the Reference Court for wrong reasons. The applicant, therefore, needs to be given an opportunity to prove his claim on merits. As such, to do substantial justice, the delay needs to be condoned. Hence, the following order:

ORDER

1. The Civil Application for condonation of delay is allowed, and disposed of. Delay caused in filing the appeal is condoned. The Appeal be registered in accordance with law.

2. On registration of the appeal, issue notice to the respondents returnable after four weeks. Learned A.G.P. waives service for respondent no.1.

3. It is clarified that, as undertaken by the applicant, he shall not be entitled for the interest for the period of delay on the enhanced amount of compensation, if the amount is enhanced either by this Court or by the Reference Court in the event of remand of the matter.

(P.R. BORA, J.)

agp/-