

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

CIVIL APPLICATION NO. 2778 OF 2017 IN FAST/28969/2016

THE EXECUTIVE ENGINEER, LIFT IRRIGATION DIVISION, OSMANABAD
VERSUS

MATHURABAI RAMDAS @ RAMRAO ATOLE AND ANOTHER

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Advocate for Applicant : Mr. S. D. Dhongade.

Advocate for Respondent No.1 : Mr. D. M. Hange.

Advocate for Respondent No.2 : Mr. S. J. Salgare.

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WITH CA/2782/2017 IN FAST/30329/2016

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CORAM : K.K. SONAWANE, J.

DATED : 08TH DECEMBER, 2017.

Order :-

1. Heard learned counsel for the applicant-Acquiring Body and learned counsel for the respondent No.1 (original claimant) as well as learned AGP for respondents No. 2 State of Maharashtra.

2. Perused the applications. Present applications are moved for condonation of delay caused for filing First Appeal against impugned Judgment and Award passed by the learned Civil Judge, Senior Division, Osmanabad, in Land Acquisition Reference No. 512 and 201 of 1997 dated 18-08-2009 filed under Section 18 of the Land Acquisition Act, 1894 on behalf of respondent (original claimant). According to learned counsel for applicant- Acquiring Body, the so-called delay caused is not intentional and deliberate, but owing to compliance of official process. After impugned Judgment and Award, applicant- Acquiring Body has to obtain certified copies of impugned Judgment and Award, as well as to seek legal opinion from the concerned Department with requisite budgetary allocation for court proceedings. After due compliance, applicant filed present appeal. But, there is delay caused in filing appeal. Hence, learned counsel for applicant- Acquiring Body requested to condone the delay.

3. Learned counsel for respondent No.1 (original claimant) has raised objection and submits that delay has not been properly explained and same may not be condoned.

4. I have given anxious consideration to the submissions advanced on behalf of both sides. Admittedly, matters pertain to the land acquisition proceedings involving public funds. The applicant-Acquiring Body is the Government Agency looking after the irrigation projects. In view of nature of the subject matter and the reasons mentioned in the application, I find that reasonable opportunity is essential to be granted to applicant- Acquiring Body to ventilate its grievance in the Appellate Forum for redressal. Therefore, delay caused for filing First Appeal is required to be condoned. Accordingly, applications for condonation of delay stand allowed in terms of prayer clause 'B'. The delay caused in preferring the First Appeal against impugned Judgment and Award is hereby condoned. The civil applications are disposed of in above terms accordingly. Registry to take requisite steps for further process.

5. After registration of appeals, issue notice to respondents.

6. Mr. Hange, learned counsel, waives service of notice for respondent No.1 (original claimant). Learned AGP waives service of notice for respondent No. 2 - State of Maharashtra.

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

8. After compliance of procedural formalities, print, etc., list the matters for admission after four weeks i.e. on 08-01-2018.

[K. K. SONAWANE]
JUDGE

rrd.