

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

947 CIVIL APPLICATION NO. 16664 OF 2016
IN FAST/30518/2016

VISHWACHARAN KARANLAL SHRIWASTAV DIED THR LRS SULOCHANA AND ANR
VERSUS
THE STATE OF MAHARASHTRA AND ORS

Advocate for Applicants : Mr. Nitin S. Choudhary
Adv. for Respondent No. 4 : Mr. K. G. Patil

CORAM : K.K. SONAWANE, J.

DATE : 16th August, 2017.

PER COURT:

1] Learned counsel for the applicant submits that the applicants are rustic and illiterate female members. Applicant No. 01/01 is the widow of original land owner Mr. Vishwacharan Karanlal Shriwastav whereas applicant no. 01/02 is his daughter. They have no knowledge about the legal procedure. They came to know about the impugned judgment and award when they were called to receive the enhanced amount of compensation awarded by the Reference Court. Thereafter, the applicants procured the certified copy of the impugned judgment and award. The applicants secured legal advice and filed the present first appeals. There is inordinate delay in filing the appeal but the delay is not intentional and deliberate but it was caused due to lack of communication. The enhanced compensation amount came to be received by the applicants in the month of July, 2016 and thereafter, the applicants have preferred the present 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. 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 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.

4. In sequel, application stands 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.

5. 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.

6. The civil application is allowed in aforesaid terms and stand disposed of.

[K.K. SONAWANE]
JUDGE.

grt/-