

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1)

CA NO.14719/2016

**927 CIVIL APPLICATION NO. 14719 OF 2016
IN FAST/30646/2016**

SHIVAJI KAMDEO BHAKARE AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...
Advocate for Applicants : Mr.Murge Estling S
AGP for Respondent State: Mr. S.M.Ganachari
Mr. S G Karlekar, Adv., for respondent no.3./

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CORAM : P.R. BORA, J.
Dated: July 18, 2017
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PER COURT :-

1. Delay of 1524 days has occurred in filing the present appeal by the original claimants. Shri Murge, learned Counsel appearing for the applicant, submitted that after the subject land was acquired, the applicants were left with no source of income so as to take legal recourse and file appeal and that is the main reason that applicants could not file appeal within the stipulated period of limitation. Learned Counsel submitted that the applicant has raised substantial grounds against the judgment and order passed by the Reference Court and, as such, the appeal needs to be heard on merits. Learned Counsel submitted that the applicants are ready to undertake not to claim any interest or statutory benefits for the period of delay in the event their appeal is allowed and the amount of compensation is enhanced on the enhanced amount of compensation.

agp/-

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2. Shri Karlekar, learned Counsel appearing for the acquiring body, opposed for condonation of delay stating that the reasons which are assigned are untenable and delay of huge period cannot be condoned on such grounds. Learned Counsel prayed for rejecting the application.

3. The reasons which are assigned by the applicant for condonation of delay cannot be outrightly rejected. It cannot be denied that the applicant might have been prevented from filing the appeal within the stipulated period for want of funds. Moreover, when the applicant has undertaken not to claim any benefit or interest for the period of delay, it appears to me that applicants / appellants need to be given an opportunity to agitate the matter on merits. Hence, the following order:

ORDER

1. The delay caused in preferring the appeal is condoned. The Application for condonation of delay is allowed and disposed of.

2. The Appeal be registered in accordance with law.

3. It is clarified that, as undertaken by the applicants, they will not be entitled for the statutory benefits or interest available under the law, for the period of delay in the event the

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appeal is allowed and the amount of compensation is enhanced, on the enhanced amount of compensation.

4. Present order be kept in the papers of the appeal.

(P.R. BORA, J.)

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