

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

30 CIVIL APPLICATION NO. 14713 OF 2016
IN FAST/30648/2016

BHAGWAT DADARAO GHULE AND OTHERS .. APPLICANTS.
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS .. RESPONDENTS.

...
Advocate for Applicants : Mr. E. S. Murge.
AGP for Respondents No.1,2 State : Mr. S. R. Yadav-Lonikar.
Advocate for Respondent No.3 : Mr. H. T. Gaikwad (Absent)
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CORAM : K.K. SONAWANE, J.

DATED : 13TH SEPTEMBER, 2017.

Order :-

1. Heard the learned counsel appearing for applicants-appellants and respondents No. 1 and 2 - State. None appears for respondent No.3- Acquiring Body. Perused the application.
2. The learned counsel for the applicants-appellants 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 1443 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 applicants-appellants are 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 applicants-appellants 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 applicants-appellants 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 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 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.

6. 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. 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.