

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

24 CIVIL APPLICATION NO. 2583 OF 2017  
IN FAST/31953/2016

KADUBA PANDIT MAGAR  
VERSUS  
THE STATE OF MAHARASHTRA AND ANR

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Advocate for Applicants : Mr. Nandkishor J. Pahune Patil  
AGP for Respondent No.1 : Mr. S. R. Yadav Lonikar.  
Adv. for Respondent No.2 : Mr. B.R. Surwase

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CORAM : K.K. SONAWANE, J.

DATE : 4th September, 2017.

**PER COURT:**

1. Learned counsel for the applicant submits that the applicant is a poor agriculturist and he has no other source of income except the agricultural land acquired by the State. The reference filed by the applicant was partly allowed. He did not get the amount of enhanced compensation at the earliest. Therefore, the applicant could not file the first appeal in this Court within the stipulated period.

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 applicant is rustic and illiterate person 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 no impediment to condone the delay. 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 stands disposed of.

**[K.K. SONAWANE]**  
**JUDGE.**

grt/-