

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

35 CIVIL APPLICATION NO. 14701 OF 2015
IN FAST/32041/2014

VITTHAL MUKINDA
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Applicant : Mr. Ganesh M Jadhav
AGP for Respondents No.1 and 2 : Mr. S.R. Yadav
Advocate for Respondent No. 3 : Mr. A.M. Gaikwad

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CORAM : K.K. SONAWANE, J.
DATED : 13th NOVEMBER, 2017.

Order :-

1. Heard the learned counsel appearing for the parties.
2. Perused the application. The learned counsel for applicant submits that State Government has preferred the appeal bearing No. 3340 of 2011 and the same is pending. The applicant-original claimant moved present application for condonation of 1548 days delay caused in preferring the appeal against the impugned Judgment and Award passed by the learned Reference Court. According to learned counsel for the applicant, the applicant is rustic and illiterate person having no knowledge about the legal procedure as well as he had a financial crisis. The applicant preferred present appeal, but there is delay, which is not intentional or deliberate, but it caused for procuring the funds for court fees etc. He has every hope of success in the appeal. The learned counsel further added that 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. Hence, learned

counsel for applicant prayed for condonation of delay.

3. The learned counsel for Acquiring Body submits that there is inordinate delay, which has not been explained satisfactorily, therefore, the same cannot be condoned and prayed for rejection of application.

4. The learned AGP raised objection and submits that application be rejected.

5. In view of the aforesaid submissions and for the reasons mentioned in the application that applicant is rustic and illiterate person having no knowledge about the legal procedure as well as he had a financial crisis, the application for condonation of delay deserves to be allowed. I find it justifiable to give reasonable opportunity to the applicant-appellant in the interest of justice to ventilate its 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 applicant/claimant has shown willingness/inclination that he will not claim statutory benefits as well as amount of interest as mentioned above. In such circumstances, by imposing aforesaid fetter of waiver of statutory benefits and interest amount etc. on the part of applicants-appellants, there would not be any impediment to condone the delay. The application for condonation of delay required to be allowed.

6. In sequel, application is allowed in terms of prayer clause "B". The delay caused to present the appeal against the impugned Judgment and Award stands condoned subject to condition that

applicant-appellant 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 merits.

7. Pursuant to aforesaid waiver of statutory claim, the applicant-appellant 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.

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

9. On registration of appeals, issue notice to the respondents. Learned AGP waives service of notice for respondents No. 1 and 2 and Mr. Gaikwad, learned counsel waives service of notice for respondent No. 3.

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

11. List the appeal for admission in due course.

[K. K. SONAWANE]
JUDGE

MTK