

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

**CIVIL APPLICATION NO. 2424 OF 2017
IN
FIRST APPEAL STAMP NO. 32796 OF 2016**

The Executive Engineer, L.M.I.
Division Latur

...APPLICANT

versus

Madhav Baburao Hendge and another

...RESPONDENTS

.....
Mr. V.R. Sonwalkar, Advocate for applicant
Mr. S.R. Yadav, AGP for respondent No. 2

.....
CORAM : K.K. SONAWANE, J.

DATED : 6th SEPTEMBER, 2017.

Order :-

1. Heard learned counsel for the applicant and learned AGP for respondent-State. Despite service of notice, none has caused appearance on behalf of respondent – original claimant.
2. Perused the application. The applicant is Acquiring Body. The applicant moved the present application for condonation of delay to present the appeal against impugned judgment and Award passed by the learned Reference Court in LAR No. 361 of 2008 and other connected matters. According to learned counsel for the applicant, the delay so caused is not intentional or deliberate, but caused due to unavoidable circumstances. After receipt of information of impugned Judgment and Award, the applicant consulted with its counsel and after procuring all the details about court fees expenses, etc. applicant made requisite arrangement for budgetary allocation. Thereafter, applicant preferred the present appeal, but there is delay which caused due to compliance of official process.

3. According to learned counsel for the applicant, the matter pertains to the public fund, therefore, he requested to condone the delay by adopting liberal approach.

4. The learned AGP for respondent - State submits that suitable order in the interest of justice may be passed.

5. As referred above, none appeared on behalf of respondent -original claimant, therefore no opportunity is received to hear the original claimant on this application. However, considering the reasons stated in the civil application, I do not find any impediment to condone the delay. The matter pertains to public funds, in case the delay is not condoned, no person is individually affected but, ultimately, the public interest would be at stake. In such circumstances, liberal and pragmatic approach is essential to be adopted by avoiding pedantic approach. For the reasons stated in the application, the application deserves to be allowed. Accordingly, the civil application is allowed in terms of prayer clause "B". The delay caused in filing the first appeal against the impugned judgment and award is hereby condoned. Registry to requisite steps for further process. After registration of appeal, list the same for hearing on admission in the week commencing from 6th November, 2017

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

Sd/-

[K. K. SONAWANE]
JUDGE