

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

CIVIL APPLICATION NO. 2034 OF 2016 IN FAST/32785/2014

GOURISHANKAR SHEKAPPA GADEKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Applicant : Mr. P. S. Chavan.
AGP for Respondents No. 1, 2 : Mr. S. R. Yadav-Lonikar.

...
WITH CA/14421/2015 IN FAST/32594/2014
WITH CA/2035/2016 IN FAST/32761/2014
WITH CA/2036/2016 IN FAST/32767/2014
WITH CA/2037/2016 IN FAST/32781/2014
...

CORAM : K.K. SONAWANE, J.

DATED : 15TH NOVEMBER, 2017.

Order :-

Heard Mr. P. S. Chavan, learned counsel for applicants (original claimants) and learned AGP for respondents. Perused the applications.

2. According to learned counsel for applicants-original claimants, the delay was caused for filing First Appeal against impugned Judgment and Award passed by the learned Reference Court in land acquisition references filed under Section 18 of the Land Acquisition Act, 1894. The delay was not intentional and deliberate, but, it was caused due to lack of legal knowledge about filing of appeal in the High Court. The applicants (original claimants) are poor rustic villagers and they have no income source. Due to poor financial condition, applicant-original claimants could not approach to this Court for filing present appeal. After procuring requisite funds for obtaining certified copies and expenses to file the appeal, the applicant-original claimants have preferred the present appeal. There is an every hope of success in the appeal. In case, delay is not condoned, it will cause prejudice to the applicants-original claimants, therefore, applicants-original claimants prayed to condone the delay. Moreover, the learned counsel for applicants- original claimants submits that the applicants-original

claimants 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. The learned AGP for respondents raised objection and submits that there is inordinate delay, which is not explained in proper manner, therefore, applications be rejected.

4. After giving anxious consideration to the submission canvassed on behalf of both side, it appears that, matters pertain to the determination of market value of the acquired land under the Land Acquisition Act, 1894.

5. Considering the nature of the subject matter and reasons mentioned in the applications for condonation of delay, I do not find any impediment to condone the delay. It is settled law that, liberal and pragmatic approach is essential to be adopted by avoiding pedantic approach while dealing with the applications for condonation of delay. The applicants are poor agriculturists and rustic persons, residing in the remote area. There is sufficient cause to condone the delay. It would not cause any prejudice and injustice to the respondents. In contrast, it would sub-serve the purpose for substantial justice. In addition, the applicants (original 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 (original claimants), there would not be any impediment to condone the delay. The applications for condonation of delay deserve to be allowed.

6. In sequel, applications for condonation of delay stand allowed. The delay caused to present first appeal against the impugned Judgment and Award stands condoned subject to condition that applicants/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 merit.

7. Pursuant to aforesaid waiver of statutory claim, the applicants (original claimants)-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 appeals on merit. The civil applications are allowed in aforesaid terms and stand disposed of. Registry to take requisite steps for further process in due course.
8. After registration of appeal, issue notice to respondents.
9. Learned AGP waives service of notice for respondents No.1, 2.
10. List the matters for final hearing at the stage of admission in due course.

[K. K. SONAWANE]
JUDGE

rrd.