

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

CIVIL APPLICATION NO. 15935 OF 2016 IN FAST/33599/2016

EXECUTIVE ENGINEER M.I.W. DIVISION, LATUR THR EXECUTIVE
ENGINEER LATUR AND OTHERS
VERSUS
BASANTIDEVI MADANLAL GILDA

...

Advocate for Applicant No.1 : Mr. S. G. Sangle.
AGP for Applicants No.2 and 3 : Mr. S. R. Yadav-Lonikar.

...

**WITH CA/15937/2016 IN FAST/33805/2016
WITH CA/15939/2016 IN FAST/33814/2016**

...

CORAM : K.K. SONAWANE, J.

DATED : 10TH NOVEMBER, 2017.

Order :-

1. Heard learned counsel for the applicant - Acquiring Body and learned AGP for applicants No.2 and 3. Despite service of notice, none appears for respondents-original claimants.

2. The applicant No. 1 - Acquiring Body moved present applications for condonation of delay of 1363 days in 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 applicant No. 1 is Body corporate having its independent entity. According to learned counsel for applicant, delay caused for filing first appeal is not intentional or deliberate, but caused due to compliance of official process. Therefore, he prayed to condone the delay.

3. As referred supra, despite service of notice, none appears for respondent/s (original claimant/s). Therefore, no opportunity is received for hearing of original claimant/s in the matters. I have considered the submission advanced on behalf of learned counsel for applicant- Acquiring Body. Perused the applications. The matters pertain to the Land Acquisition Proceedings. The applicant - Acquiring

Body filed present appeal on the ground that the learned Reference Court determined exorbitant market value for the land under acquisition. In view of nature of the subject matter and the reasons mentioned in the application about compliance of official process, I find it justifiable to condone the delay being a sufficient cause for the same. It is to be noted that present matter pertains to the public interest and no one individual would be affected, in case the delay is not condoned, but the public funds are at stake. It is the rule of law that while dealing with the application of condonation of delay, the liberal and pragmatic approach is required to be adopted by avoiding the pedantic approach. Therefore, I am of the opinion that there is a sufficient cause to condone the delay. Hence, the applications for condonation of delay stand allowed in terms of prayer clause (B). The so-called delay caused for filing First Appeal against impugned Judgment and Award is hereby condoned. The Registry to take requisite steps for further process.

4. On registration of appeal, issue notice for hearing of appeal at the stage of admission to the respondent (original claimant/s).

5. Meanwhile, call for record and proceedings from the concerned Reference Court. After compliance of procedural formalities, list the matters for hearing at the stage of admission in due course.

[K. K. SONAWANE]
JUDGE

rrd.