

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
43 CIVIL APPLICATION NO. 14909 OF 2016
IN FAST/33798/2016 WITH CA/14926/2016 IN FAST/33798/2016
THE EXECUTIVE ENGINEER, NIMNA DUDHANA PROJECT DIVISION, SAILU AND
ORS
VERSUS
DHONDIBA BABURAO KAKADE

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Advocate for Applicants : Mr. Ruturaj C. Patil
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CORAM : K.K. SONAWANE, J.
DATE : 27th November, 2017.

PER COURT:

1] Heard learned counsel for the applicant Acquiring Body. Despite service of notice none appears for the respondent/original claimant.

2] Perused the application. Learned Counsel for applicant/s submits that due to official procedure to present an appeal, delay has been caused. He submits that delay is not deliberate and intentional but caused owing to administrative compliance. As such, he prayed to condone the delay.

3] I have heard the submission canvassed on behalf of applicant-acquiring body. Perused the application as well as impugned judgment and award against which the applicant Acquiring Body is intending to file an appeal.

4] The matter pertains to land acquisition proceedings. The learned Reference Court partly allowed the application of the respondent filed under Section 18 of the Land Acquisition Act. The applicant Acquiring Body is intending to agitate the findings recorded by the learned Reference Court on the issue of market value arrived at by the learned Reference Court, which according to Acquiring Body, is exorbitant. It has been contended that after the impugned judgment and award of the Reference Court, the Acquiring Body being an independent institution, approached to

its counsel as directed by the superior officers and obtained the tentative figure of proposed expenditure for filing an appeal. The applicant Acquiring Body made necessary arrangement of finance for requisite court fees etc., and thereafter preferred the present appeal with application for condonation of delay. The impugned delay was not intentional and deliberate but owing to compliance of official process.

5] I am of the considered opinion that reasonable opportunity needs to be given to the applicant Acquiring Body to ventilate its grievances in the appellate forum. It is to be noted that the matter pertains to the enhancement of compensation amount under the Land Acquisition Act. The appellant is the Government Agency i.e. Acquiring Body and in view of public interest, it is imperative to extend latitude while dealing with the condonation of delay, by adopting liberal and pragmatic approach. If the appeal/s of the appellant acquiring body is/are not allowed to be presented for further process on the ground of such default of delay, no person is individually affected but, ultimately, the public interest would be at stake. Therefore, I do not find any impediment to allow the applicant/ Acquiring Body to present an appeal by condoning the delay. It would not cause any prejudice or injustice to the respondent. In contrast, it would sub-serve the interest of justice. Hence, the application for condonation of delay deserves to be allowed. In sequel, the application stand allowed in terms of prayer clause (B). Delay caused in filing appeal against the impugned judgment and award is hereby condoned. Registry to take requisite steps for further process.

On registration of appeal, issue notice to respondents. Call for R.& P from the concerned Reference Court. After receipt of R.& P. and compliance of official process, list the matter for admission in due course.

[K.K.SONAWANE, J]

grt/-