

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

**CIVIL APPLICATION NO. 1912 OF 2017
IN
FIRST APPEAL STAMP NO. 33837 OF 2016**

Vithoba Ganpat Sagar

...APPLICANT

versus

State of Maharashtra

...RESPONDENT

.....
Mr. S.N. Patne, Advocate for applicant
Mr. R.B. Bagul, AGP for respondent
.....

CORAM : K.K. SONAWANE, J.

DATED : 10th AUGUST, 2017.

Order :-

1. Heard the learned counsel appearing for both the parties.
Perused the application.
2. The learned counsel for the applicant-appellant submits that the 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.
3. In view of the aforesaid submissions and for the reasons mentioned in the application that applicant-appellant is village rustic and illiterate and when he came to know that other

adjoining land owners get more compensation of the acquisition of the land, immediately he contacted the advocate concerned. Thereafter, as per advice he preferred present appeal. Considering the contentions put forth on behalf of learned counsel for the applicant, I find it justifiable to give reasonable opportunity to the applicants-appellants in the interest of justice to ventilate the grievances before the Appellate Forum. There is no impediment to condone the delay. There is sufficient cause to allow the applications for condonation of delay. In addition, the applicants/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, there would not be any impediment to condone the delay. The application for condonation of delay deserves to be allowed.

4. In sequel, application stands allowed. The delay caused to present the appeal against the impugned 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 merit.

5. 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.

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

[K. K. SONAWANE]
JUDGE

MTK