

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

933 CIVIL APPLICATION NO. 428/2017 IN FAST/34028/2016

EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION, OSMANABAD
VERSUS
GOPINATH LAXMAN MANE DIED HIS LR'S AND ANR

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Advocate for Applicant : Smt. S.D. Shelke
Advocate for respondent-ori. Claimants: Mr. G.K. Sontakke
AGP for Respondents- State : Mr. B.V. Virdhe

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WITH CA/430/2017 IN FAST/36781/2016
WITH CA/432/2017 IN FAST/34239/2016

CORAM : K.K. SONAWANE, J.

DATED : 19th DECEMBER, 2017.

Order :-

1. Heard learned counsel for the applicant - Acquiring Body as well as learned counsel for respondents - original claimants and learned AGP for respondent No. 2 – State.

2. The applicant - Acquiring Body moved the present applications for condonation of delay in filing the first appeals 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. According to learned counsel for the applicant-Acquiring Body, impugned Judgment and Award passed by the Reference Court is erroneous, illegal and is not as per the provisions of Land Acquisition Act, 1894. Applicant is Body corporate having its independent entity. After procuring the funds for court fees appeals came to be filed, however, there is delay in filing the appeals. According to learned counsel for applicant, delay so caused is not intentional or deliberate, but caused due to compliance of official process.

3. The learned counsel for respondents-original claimants submits that there is inordinate delay, which has not been explained satisfactorily, therefore, the same cannot be condoned and prayed for

rejection of applications.

4. The learned AGP raised objection and submits that suitable orders may be passed.

5. I have given anxious consideration to the submission of both learned counsel. Considering the nature of the subject-matter and reasons mentioned in the applications, I do not find any impediment to allow the applications for condonation of delay. The public interest is involved into the matter. It is settled law that liberal and pragmatic approach is essential to be adopted by avoiding pedantic approach while dealing with the application for consideration of delay. Therefore, it is imperative to grant some sort of latitude to 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 purpose of substantial justice. Hence, the applications for condonation of delay deserve to be allowed. In sequel, the applications stand allowed in terms of prayer clause (B). Delay caused in filing appeals against the impugned Judgment and Award is hereby condoned. Registry to take requisite steps for registration of appeal. Civil applications stand disposed of accordingly.

6. On registration of appeal, issue notice to the respondents. Mr. Sontakke, learned counsel waives service of notice for respondents-original claimants and learned AGP waives service of notice for respondent -State

6. Meanwhile, call for record and proceedings from the concerned learned Reference Court.

7. List the appeals for admission in due course.

Sd/-

[K. K. SONAWANE]
JUDGE

MTK.