

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

CIVIL APPLICATION NO. 11734 OF 2015 IN FAST/33455/2014

DHONDIRAM LAXMANRAO GANDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Applicants : Mr. V. D. Bhise.
AGP for Respondent No.1,2 : Mr. S.R. Yadav-Lonikar.
Advocate for Respondent No.3 : Mr. R. C. Patil, Mr.S.D.Dhongade
(Absent)

...
WITH CA/11733/2015 IN FAST/33459/2014
...

CORAM : K.K. SONAWANE, J.

DATED : 21ST NOVEMBER, 2017.

Order :-

1. Heard learned counsel appearing for both parties. Perused the applications.
2. The learned counsel for the applicants submits that there is delay 551 days caused for filing first appeal against impugned Judgment and Award passed by 3rd Joint Civil Judge, Senior Division, Jalna, in Land Acquisition Reference No. 1132 and 1211 of 2010 dated 11-03-2013. The delay caused was not intentional or deliberate, but caused due to the unavoidable circumstances. The applicants are poor agriculturist. Due to financial crisis, they could not present appeal within stipulated period. There is an every hope of success in the appeal. In case, delay is not condoned, it will cause prejudice to the applicants, therefore, applicants prayed to condone the delay. Moreover, the learned counsel for applicants submits that the applicants 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. Per contra, learned AGP for respondent-State/SLAO submits that there is inordinate delay caused in filing appeals and same is not properly explained. As such, the applications for condonation of delay may be rejected.

4. In view of the aforesaid submissions and for the reasons mentioned in the applications that the applicants are rustic and illiterate persons having no knowledge about the legal procedure as well as they had a financial crisis, 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 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 applications for condonation of delay deserve to be allowed.

5. In sequel, applications stand allowed. The delay caused to present the appeals against the impugned Award stands condoned subject to condition that applicants-appellants 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.

6. 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 appeals on merit. The civil application is allowed in aforesaid terms and stand disposed of. Registry to take requisite steps for further process in due course.

7. After registration of appeal, issue notice to respondents.
8. Learned AGP waives service of notice for respondents No.1 and 2 State of Maharashtra and Special Land Acquisition Officer.
9. Meanwhile, call for record and proceedings from the concerned reference Court. After receipt of record and proceedings, list the matters for hearing in due course.

[K. K. SONAWANE]
JUDGE

rrd.