

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**30 CIVIL APPLICATION NO. 16532 OF 2016
IN FAST/35373/2016**

RADHIKA DNYANOBA WAGHMARE
VERSUS
THE STATE OF MAHARASHTRA AND ORS

WITH CA/16529/2016 IN FAST/35365/2016

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Advocate for Applicants : Mr. Patil Laxmikant C.
AGP for Respondent Nos.1 & 2 / State : Mr. S.R. Yadav

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CORAM : K.K. SONAWANE, J.

DATE : 18th September, 2017

PER COURT :

1. Heard learned counsel for the applicants and learned A.G.P. for respondent Nos.1 and 2 – State. Perused the applications and relevant documents on record.

2. The learned counsel for the applicants submits that applicants preferred References under section 18 of the Land Acquisition Act, 1894 for enhancement of compensation awarded to their acquired land. The learned Reference Court did not appreciate the evidence on record in its proper perspective and awarded meagre amount. The applicants are intending to prefer the first appeals to redress their grievances. But, there is delay in filing the appeals. According

to learned counsel, the applicants are rustic and agriculturists and due to financial crises they could not approach to this Court within stipulated period. The applicants have every hope of success in the appeals. In case, the delay is not condoned, it would cause prejudice to the applicants. The learned counsel for applicants submits that there are other first appeals filed by the adjoining land owners in which the delay was condoned and the matters are listed for final hearing on merits. He further submits that in view of the factum of condonation of delay in other proceedings of adjoining land owners of the same project, he requested to condone the delay. The applicants-appellants 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 appeals on merit.

3. The learned AGP raised objection and submits that reasons mentioned in the applications are not sufficient to condone the delay. There was huge delay, therefore, learned AGP prayed to dismiss the applications.

4. I have given anxious consideration to the arguments advanced on behalf of both sides. Perused the applications and relevant documents on record. 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 sufficient cause to allow the applications for condonation of delay. In addition, the applicants/claimants have shown their willingness / inclination that he 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 appeals on merit.

6. Pursuant to aforesaid waiver of statutory claim, the applicants-appellants shall furnish

undertaking to that effect and place it on record of the appeals to enable this Court to take note of the same, while decision of the appeals on merit. Registry to take requisite steps for further process.

7. The civil applications are allowed in aforesaid terms and stands disposed of.

(K.K. SONAWANE, J.)