

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**CIVIL APPLICATION NO. 1918 OF 2017
IN
FIRST APPEAL STAMP NO. 35396 OF 2016**

Dnyanoba Vitthal kadam

...APPLICANT

versus

The State of Maharashtra and others

...RESPONDENTS

.....
Mr. N.C. Pawade, Advocate holding for
Mr. L.C. Patil, Advocate for applicant
Mr. S.P. Sonpawale, AGP for respondents No.1 and 2
Mr. S.G. Bhalerao, Advocate for respondent No. 3
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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 applications that the applicant-appellant is rustic and illiterate agriculturist and he has utilized sufficient amount for development of land under acquisition. Due to financial crises he could not file the appeal within stipulated period. He has no knowledge about legal procedure and after procuring money he preferred the present appeal. 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 applicant/claimant has shown his 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 applicant-appellant, 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