

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

13 CIVIL APPLICATION NO. 325 OF 2017
IN FAST/37828/2016

THE EXECUTIVE ENGINEER MINOR IRRIGATION DIVISION, OSMANABAD AND ANR
VERSUS
ASALAMKHAN SATTARKHAN PATHAN

...
Advocate for Applicants : Ms. Bharati B. Gunjal

CORAM : K.K. SONAWANE, J.

DATE : 22nd November, 2017.

PER COURT:

1] Heard learned counsel for the applicant. Despite service of notice, none appears for the respondents.

2] Perused the application. Learned Counsel for applicant/s submits that due to official procedure to present an appeal, delay has been caused. She submits that delay is not deliberate and intentional but caused owing to administrative compliance. As such, she prayed to condone the delay.

3] I have heard the submission canvassed on behalf of both sides and perused the application as well as the impugned judgment and award against which the applicant Acquiring Body is intending to file an appeal.

5] The matter pertains to land acquisition proceedings. The learned Reference Court partly allowed the application of the respondent filed under Section 18 of the Land Acquisition Act. The applicant Acquiring Body is intending to agitate the findings recorded by the learned Reference Court on the issue of market value arrived at by the learned Reference Court, which according to Acquiring Body, is exorbitant. It has been contended that after the impugned judgment and award of the Reference

Court, the Acquiring Body being an independent institution, approached to its counsel as directed by the superior officers and obtained the tentative figure of proposed expenditure for filing an appeal. The applicant Acquiring Body made necessary arrangement of finance for requisite court fees etc., and thereafter preferred the present appeal with application for condonation of delay. The impugned delay was not intentional and deliberate but owing to compliance of official process.

6] I am of the considered opinion that reasonable opportunity needs to be given to the applicant Acquiring Body to ventilate its grievances in the appellate forum. It is to be noted that the matter pertains to the enhancement of compensation amount under the Land Acquisition Act. The appellant is the Government Agency I.e. Acquiring Body and in view of public interest, it is imperative to extend latitude while dealing with the condonation of delay, by adopting liberal and pragmatic approach. If the appeal/s of the appellant acquiring body is/are not allowed to be presented for further process on the ground of such default of delay, no person is individually affected but, ultimately, the public interest would be at stake. Therefore, I do not find any impediment to allow 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 interest of justice. Hence, the application for condonation of delay deserves to be allowed. In sequel, the application stands allowed in terms of prayer clause (B). Delay caused in filing appeal against the impugned judgment and award is hereby condoned. Registry to take requisite steps for registration of appeal. On registration, issue notice to respondents returnable on 18th January, 2018.

[K.K. SONAWANE]
JUDGE.

grt/-