

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

936 CIVIL APPLICATION NO. 3234 OF 2018
IN
FAST/161/2018

LAXUMAN BAPU HALGUNDE

VERSUS

THE STATE OF MAHARASHTRA AND ANR

...

Advocate for Applicant : Mr. Rathi Swapnil S.
A.G.P. for Respondent No.1-State : Mr. A.M. Phule
Advocate for Respondent No.2 : Mr. G.S. Khaire,
holding for Mr. S.S. Dande

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CORAM : K.K. SONAWANE, J.

DATE : 8th JUNE, 2018

PER COURT :

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. The learned AGP and learned counsel for respondent No.2 oppose the application on the ground that there is inordinate delay and same has not been properly explained. Therefore, they requested for rejection of application.

4. Considering the fact that the applicant is a rustic and illiterate person having no knowledge about the legal procedure as well as he had a financial crisis, I find it justifiable to give reasonable opportunity to the applicant-appellant 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 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 application for condonation of delay deserves to be allowed.

5. 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.

6. Pursuant to waiver of interest, 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.

7. On registration of Appeal, issue notice to the respondents. Learned A.G.P. waives service of notice on behalf of respondent No.1 and learned counsel Mr. Mr. G.S. Khaire, holding for Mr. S.S. Dande waives service of notice on behalf of respondent No.2.

8. Call record and proceedings from the concerned Reference Court.

9. After receipt of record and proceedings, list the First Appeal for final hearing on merit at admission stage.

(K.K. SONAWANE, J.)