

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

21 CIVIL APPLICATION NO. 1046 OF 2018
IN FAST/2220/2018 WITH CA/1047/2018 IN FAST/2220/2018

THE EX. ENGINEER, MAJALGAON CANAL DIV. NO. 7 GANGAKHED THR
GMIDC AURANGABAD

VERSUS

JAGANNATH KASHINATH GHUBADE AND ANR

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Advocate for Applicant : Mr. Sudhir G. Bhalerao

AGP for Respondents: Ms. S.S. Raut

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CORAM : K.K. SONAWANE, J.

DATED : 5th JUNE, 2018.

Order :-

1] Heard learned counsel for the applicant/Acquiring Body. When the matter is called out, none appears for respondents/original claimants.

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

4] I have heard the submission canvassed on behalf of learned counsel for applicant and also 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 and particularly, award of interest on amount of compensation. 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. 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 of the appellant acquiring body is 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 deserve 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.

7] On registration of appeal, issue notice to respondents. AGP waives notice for respondent No.2. R. & P. be called. After receipt of R. & P. matter be placed for admission in due course.

[K. K. SONAWANE]
JUDGE