

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

932 CIVIL APPLICATION NO. 3674 OF 2017
IN FAST/2424/2017

VITHAL DHONDIBA MAGAR
VERSUS
THE STATE OF MAHARASHTRA THR THE COLLECTOR, OSMANABAD AND ANR

...
Advocate for Applicant : Mr. P.S. Chavan
AGP for Respondent No.1: Ms. S.S. Raut
Adv. for respondent No.2 : Mr. S.G. Sangle.

CORAM : K.K. SONAWANE, J.
DATE : 21st JUNE , 2018.

PER COURT:

Heard learned counsel for the applicant, learned AGP for respondent State and learned counsel Mr. Sangle for the Acquiring Body.

2. Perused the application is moved for condonation of delay of 2061 days in filing the first appeal against the impugned judgment and award passed by the learned Civil Judge (S.D.), Osmanabad in LAR No. 11 of 2001. The learned counsel for the applicant submits that the respondent acquiring body has also preferred an appeal against the same award.

3. The learned counsel for the applicants-appellants further submits that 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 appeal on merit.

4. 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.

5. 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 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 applicants/claimants 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.

6. In sequel, application stands allowed. The delay caused to present the appeal 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 appeal on merit.

7. Pursuant to aforesaid waiver of statutory claim, the applicants-appellants 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.

8. The civil application is allowed in aforesaid terms and stands disposed of.

[K.K. SONAWANE]
JUDGE.

grt/-