

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

CIVIL APPLICATION NO. 3399 OF 2017
IN FAST/6519/2017

THE EXECUTIVE ENGINEER, CONSTRUCTION CENTRAL RAILWAY
DIVISION PUNE.

VERSUS

KIRAN S/O. BABURAO SURYAWANSHI AND OTHER

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Advocate for Applicant : Mr. A. V. Soman.

Advocate for Respondent No.1 : Mr. G. K. Sontakke.

AGP for Respondent No.2 : Mr. P. G. Borade.

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CORAM : K.K. SONAWANE, J.

DATED : 3rd JULY, 2018.

Order :-

1. Heard Mr. Soman, learned counsel for applicant- Acquiring Body and Mr. Sontakke, learned counsel for respondent No.1-claimant. Mr. Borade, learned AGP on behalf of respondent No.2 State is present. Perused the application and relevant documents on record.

2. The applicant-Acquiring Body moved present application for condonation of 1352 days delay caused in filing the first appeal against impugned Judgment and Award dated 13-02-2013 passed by the learned Civil Judge, Senior Division, Osmanabad in Land Acquisition Reference No. 326 of 2003 filed under section 18 of the Land Acquisition Act, 1894. According to learned counsel for applicant, impugned Judgment and Award passed by the Reference Court is erroneous, illegal and is not as per the provisions of L.A.Act. The applicant is the body corporate having its independent entity. After procuring the funds for court fees appeals came to be filed, however, there is delay in filing the appeal. According to learned counsel for applicant, delay so caused is not intentional or deliberate, but it was caused due to compliance of official process. Therefore, he prayed to condone the delay.

3. The learned AGP for respondent No. 2 submits for suitable order in the interest of justice.

4. The learned counsel for respondent No.1-original claimant raised objection that the satisfactory reasons for such inordinate and huge delay caused for filing first appeal have not been properly explained by the applicants. He requested to reject the application.

5. I have given anxious consideration to the submissions advanced on behalf of both side. Admittedly, matter pertains to the land acquisition proceedings involving public funds. The applicant- Acquiring Body is the Government Agency looking after the irrigation projects. In view of nature of the subject matter and the reasons mentioned in the application, an reasonable opportunity is essential to be granted to the applicant- Acquiring Body to ventilate it's grievance in the Appellate Forum for redressal. Therefore, delay caused for filing First Appeal is required to be condoned. Accordingly, application for condonation of delay stands allowed in terms of prayer clause 'B'. The delay caused in preferring the First Appeal against impugned Judgment and Award is hereby condoned. The civil application is disposed of in above terms accordingly. Registry to take requisite steps for further process.

6. After registration of appeal, issue notice to respondents.

7. Mr. G. K. Sontakke, learned counsel waives service of notice for respondent No.1-original claimant. Mr. P. G. Borade, Learned AGP waives service of notice for respondent No.2.

8. Meanwhile, call for record and proceedings from the concerned Reference Court.

9. After receipt of record and proceedings, list the matter for admission in due course.

[K. K. SONAWANE]
JUDGE

rrd.