

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

CIVIL APPLICATION NO. 8480 OF 2014 IN FAST/6619/2014

LAXMAN TUKARAM UPPARWAD
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. S. S. Halkude.
AGP for Respondent No.1 : Mr. A. D. Namde.

...
CIVIL APPLICATION NO. 8481 OF 2014 IN FAST/6625/2014
...

**CORAM : K.K. SONAWANE, J.
DATED : 15TH JANUARY, 2018.**

Order :-

Heard Mr. S. S. Halkude, learned counsel for applicants (original claimants) and Mr. A. D. Namde, learned AGP for respondents No. 1- State of Maharashtra. None appears for respondent No. 2- Acquiring Body. Perused the applications and the relevant documents produced on record.

2. The learned counsel for applicants (original claimants) submits that the respondent- State has also filed cross appeal against the applicant (original claimant) arising out of the same Award vide First Appeal (Stamp) No. 17385 of 2011 and this Court [Coram : S.P. Deshmukh, J.] has condoned the delay caused for filing appeal on behalf of respondent- State of Maharashtra. The learned counsel for applicants simultaneously submits that the applicants-original claimants 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. Therefore, he prayed to condone the delay.

3. The learned AGP for respondent-State raised objection and submits that there is inordinate delay, which is not explained in proper manner, therefore, applications be rejected.

4. After giving anxious consideration to the submission canvassed on behalf of the both sides, it appears that, matter pertains to the determination of market value of the acquired land under the Land Acquisition Act, 1894. Considering the nature of subject matter and the reasons mentioned in applications for condonation of delay, I do not find

any impediment to condone the delay. It is settled law that, liberal and pragmatic approach is essential to be adopted by avoiding pedantic approach while dealing with the applications for condonation of delay. The applicants are the poor agriculturists and rustic person, residing in the remote area. There is sufficient cause to condone the delay. It would not cause any prejudice and injustice to the respondents. In contrast, it would sub-serve the purpose for substantial justice. Moreover, the proceedings of appeal filed on behalf of respondent- State is pending the adjudication on merit. In addition, the applicants (original claimants) has shown their willingness/ inclination that he 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 (original claimants), there would not be any impediment to condone the delay. The applications for condonation of delay deserve to be allowed.

5. In sequel, applications stand allowed. The delay caused to present the appeals against the impugned Judgment and Award stand condoned subject to condition that applicant/s-appellant/s 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 aforesaid waiver of statutory claim, the applicant/s-appellant/s 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 appeals on merit. The civil applications stand allowed in aforesaid terms and disposed of accordingly. Registry to take requisite steps for further process in due course.

7. After registration of appeals, issue notice to respondents. Learned AGP waives service of notice for respondent No.1.

8. Meanwhile, call for record and proceedings from the concerned reference Court. List the appeals for admission in due course.

[K. K. SONAWANE]
JUDGE

rrd.