

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

CIVIL APPLICATION NO. 10369 OF 2016
IN FAST/9050/2016

THE EXECUTIVE ENGINEER, MEDIUM PROJECT DIVISION OSMANABAD
AND OTHERS

VERSUS

SAYYAD ABDU MOLLANI DIED HIS LRS SAYYAD SHARPPA SAYYED
MOLLA ALI ABED ULHA AND OTHERS

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Advocate for Applicant No.1 : Mr. U. K. Patil.
AGP for Applicants No. 2, 3 : Mr. B. V. Virdhe.

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CORAM : K.K. SONAWANE, J.

DATED : 15TH JANUARY, 2018.

Order :-

Heard learned counsel for the applicant- Acquiring Body. Learned AGP for applicants No. 2, 3 is present. Despite service of notice, none appears for legal representatives of deceased respondent. Perused the application.

2. The applicant- Acquiring Body has moved present application for condonation of 805 days delay caused in filing First Appeal against the impugned Judgment and Award passed by the learned Reference Court in L.A.R.No. 766 of 2007 dated 4th October, 2013. According to Mr. Umakant Patil, learned counsel for applicant- Acquiring Body, the so-called delay caused for filing appeal is not intentional or deliberate, but it was caused due to compliance of official process. The learned Reference Court has granted exorbitant and excessive compensation amount. In such circumstances, he prayed to condone the delay.

3. Learned AGP for applicants No.2 and 3 submits that just and proper order be passed in the interest of justice.

4. As referred supra, despite service of notice, no one has caused appearance on behalf of legal representatives of deceased respondent (original claimant) Sayyed Abdu Mollani, therefore, opportunity is not received for hearing to them. In view of the nature of subject matter, I proceed further to adjudicate the application for condonation of delay on merit in the interest of justice.

5. Admittedly, the matter pertains to the Land Acquisition Proceedings. The applicant - Acquiring Body filed present appeal on the ground that the learned Reference Court determined exorbitant market value for the land under acquisition. In view of nature of the subject matter and the reasons mentioned in the application, there is no impediment that the reasonable opportunity is required to be given to the applicant- Acquiring Body to ventilate it's grievances in the Appellate Forum for redressal. It is to be noted that present matter pertains to the public interest and no one individual would be affected, in case the delay is not condoned, but the public funds are at stake. It is the rule of law that while dealing with the application of condonation of delay, the liberal and pragmatic approach is required to be adopted by avoiding the pedantic approach. Therefore, I am of the opinion that there is a sufficient cause to condone the delay in this matter. Hence, the civil application stands allowed in terms of prayer clause (B). The so-called delay caused for filing First Appeal against impugned Judgment and Award is hereby condoned. The Registry to take requisite steps for further process.

6. On registration of appeal, issue notice of hearing of appeal at the stage of admission to the respondents (original claimants).

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

8. List the matter in due course.

[K. K. SONAWANE]
JUDGE