

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

935 CIVIL APPLICATION NO.8072 OF 2018
IN FAST/10255/2018

SANDU CHANGUNA KAPSE
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...

Advocate for Applicants : Mr. Bide Dnyaneshwar A
Mr. PG Borade, AGP for Respondents: 1 & 2.

CORAM : P.R.BORA, J.

DATE : 29th August, 2018.

PER COURT :

1) Heard learned counsel appearing for the applicant and learned AGP appearing for State.

. Respondent No.3 though is duly served, none one has entered appearance on its behalf.

2) Delay of 1821 days has occurred in filing the present appeal. It is the contention of the applicant that lack of knowledge of legal procedure and non-availability of sufficient funds are the reasons for occurrence of the delay by the applicant in filing the present appeal. The learned counsel for the applicant submitted that the delay caused is for bonafide reasons and

unintentional.

. The learned counsel submitted that the applicant has also filed an undertaking that the applicant will not claim any interest on statutory benefit of the period of delay in the event of his success in the appeal. The learned counsel further submitted that on such condition, the applicant may be given an opportunity to prosecute his appeal on merits. The learned counsel relied upon the judgment of the Hon'ble Apex Court in the case of K.Subbarayudu and Ors. Vs. Special Deputy Collector (Land Acquisition) - (2017) 12 SCC 840.

4. Learned AGP has resisted the request so made. He submitted that financial crunch cannot be a ground for condoning the delay. The learned AGP further submitted that in absence of any cogent and sufficient reasons, the huge delay of 1821 days cannot be condoned. The learned AGP relied upon the judgment of the Hon'ble Apex Court in the case of Basavraj and Anr. Vs. Special Land Acquisition officer - (2013) 14 SCC

81.

5. I have carefully considered the submissions advanced by the learned counsel appearing for the respective parties. It is true that financial crunch may not be the ground for condoning the delay. However, as has been observed by the Hon'ble Apex Court in the case of K.Subbarudu (cited supra), the said reason can also not be outrightly rejected in every case. Further, the applicant himself has undertaken not to claim any interest or statutory benefit of the period of delay in the event of his success in the appeal. In the circumstances, I am inclined to allow the present application. Hence, the following order, -

ORDER

- i. The delay caused in filing the appeal is condoned.
- ii. Appeal be registered in accordance with law. After registration of the appeal, issue notices to the respondents.
- iii. Learned AGP waives service for

respondents Nos.1 & 2.

iv. It is clarified that as undertaken by the applicant, he shall not be entitled for any statutory benefit or interest for the period of delay in the event of his success in the appeal on the amount of enhanced compensation.

v. The Civil Application stands disposed of. Copy of the present order be kept in Appeal.

(P . R . BORA)
JUDGE

bdv/