

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

CIVIL APPLICATION NO. 15029 OF 2016 IN FAST/16633/2016

THE EXECUTIVE ENGINEER MINOR IRRIGATION DIVN LATUR AND ANR
VERSUS
BABULAL BANSILAL TOSHNIWAL

...
Advocate for Applicant No.1 : Ms Madhubala B. Gangwal.
AGP for Applicant No.2 : Mr. A.D. Namde.
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CORAM : K.K. SONAWANE, J.

DATED : 10TH JANUARY, 2018.

Order :-

1. Heard learned counsel for the applicant-Acquiring Body as well as learned AGP for applicant No. 2- State of Maharashtra. Despite service of notice, none appears for respondent (original claimant). Perused the application.
2. The applicant-Acquiring Body moved the present application for condonation of 1025 days caused delay in filing the first appeal against impugned Judgment and Award passed by the learned Civil Judge, Senior Division, Nilanga, in Land Acquisition Reference No. 8 of 2004 dated 18-09-2012. According to learned counsel for the applicant, impugned Judgment and Award passed by the Reference Court is erroneous, illegal and is not as per the provisions of Land Acquisition Act, 1894. The applicant is Body corporate having its independent entity. After procuring the funds for court fees appeal 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 caused due to compliance of official process.
3. The learned AGP for applicant No. 2 submits for suitable order in the interest of justice.
4. As referred above, respondent-original claimant remained absent, therefore, no opportunity for hearing him in the present

application is received to this Court. Considering the nature of the subject-matter and reasons mentioned in the application, I do not find any impediment to allow the application for condonation of delay. It is settled law that liberal and pragmatic approach is essential to be adopted by avoiding pedantic approach while dealing with the application for condonation of delay. Therefore, I do not find any impediment to grant some sort of latitude to the applicant- Acquiring Body to present an appeal by condoning the delay. It would not cause any prejudice or injustice to the respondent. In contrast, it would subserve the purpose for substantial justice. Hence, the application for condonation of delay deserves to be allowed. In sequel, the application stands allowed in terms of prayer clause (B). Delay caused in filing appeal against the impugned Judgment and Award is hereby condoned. The civil application is allowed in above terms and stands disposed of accordingly. Registry to take requisite steps for further process.

5. On registration of appeal, issue notice to the respondent (original claimant).

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

7. List the appeal for admission in due course.

[K. K. SONAWANE]
JUDGE

rrd.