

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

906 CIVIL APPLICATION NO. 8484 OF 2014
IN FAST/19755/2014

MUNICIPAL COUNCIL OSMANABAD THROUGH ITS CHIEF OFFICER
VERSUS
RAOSAHEB BABURAO GHOLKAR AND OTHERS

...
Advocate for Applicant : Mr. Ramesh V. Naiknavare
AGP for Respondent No.2: Mr. R.B. Bagul
Adv. for Respondent No. 1 : Mr. S.S. Shete

CORAM : K.K. SONAWANE, J.

DATE : 9th January,2018.

PER COURT:

1] Heard learned counsel for the applicant and learned counsel for the respondents original claimants as well as learned AGP for the State of Maharashtra..

2] Perused the application. This is an application moved by the civic authority for condonation of delay caused for filing appeal against the impugned judgment and award passed by the Reference Court in LAR No. 10 of 1991. According to learned counsel for applicant, the delay is not deliberate and intentional but caused owing to compliance of procedural formalities. As such, he prayed to condone the delay. He also alleged that the Reference Court has granted exorbitant amount of compensation in this case which would cause injustice and prejudice to the applicant. Therefore, the applicant civic authority is intending to agitate the findings of the learned Reference Court.

3] Learned counsel for the respondent raised objection and submits that delay has not been properly explained and it would be unjust

and improper to condone the delay.

4] I have heard the submission canvassed on behalf of both sides and perused the application as well as the impugned judgment and award against which the applicant civic authority is intending to file an appeal. Admittedly, the matter pertains to determination of market value of the land under acquisition. The respondent-original claimant preferred an application under Section 18 of the Land Acquisition Act for enhancement of compensation for the property acquired by the applicant civic authority. The Reference Court allowed the reference petition and granted enhancement of compensation of Rs.50,000/- with all statutory benefits. According to the applicant, the market value calculated by the Reference Court is exorbitant and excessive in nature.

5] In view of nature of subject matter and the allegations cast on behalf of the applicant, I am of the considered opinion that reasonable opportunity needs to be given to the applicant civic authority to ventilate its grievances in the appellate forum. It is to be noted that the matter pertains to the enhancement of compensation amount under the Land Acquisition Act. The appellant is the civic authority and in view of public interest, it is imperative to extend latitude while dealing with the condonation of delay, by adopting liberal and pragmatic approach. If the appeal of the appellant civic body is not allowed to be presented for further process on the ground of delay, no one individual would be affected but, ultimately, the public interest would be at stake. Therefore, I do not find any impediment to allow the applicant civic authority to present an appeal by condoning the delay. It would not cause any prejudice or injustice to the respondent/original claimant. In contrast, it would sub-serve the interest of justice. Hence, the application for condonation of delay deserve to be allowed. In sequel, the application stands allowed in terms of prayer clause (B). Delay of 828 days caused in filing appeal against the impugned judgment and award is hereby

condoned. Registry to take requisite steps for registration of appeal.

5] On registration of appeal, issue notice to respondents. The learned counsel Shr Shete, Advocate waives notice for respondent No.1-original claimant. Mr. R.B. Bagul, AGP waives notice for respondent No.2. After compliance of procedural formalities list the appeal for admission in due course.

[K.K. SONAWANE]
JUDGE.

grt/-