

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

CIVIL APPLICATION NO. 14877 OF 2011
IN FAST/28115/2011

SHAILESHKUMAR NAGNATHRAO JALKOTE
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...
Advocate for Applicants : Mr. Dattatray H. Jadhavar.
AGP for Respondents No.1 and 2 : Mr. B. V. Virdhe.
Advocate for respondent No. 3: Mr. R.C. Patil
...

CORAM : K.K. SONAWANE, J.

DATED : 25th JUNE, 2018.

Order :-

1. Heard learned counsel for the applicant, learned AGP on behalf of respondents No. 1 and 2 and Mr. Patil, learned counsel for respondent No. 3-Acquiring Body.
2. Learned counsel for the applicants submits that the delay of 264 days caused in filing the first appeal was not intentional or deliberate, but it caused due to unavoidable circumstances. The matter pertains to the compensation amount, hence he prayed to condone the delay.
3. Learned AGP and Mr. R.C. Patil, learned counsel for respondents raised objection and submits that the delay has not been properly explained on behalf of the applicant, hence the application may not be considered.
4. Having given anxious consideration to the arguments advanced on behalf of both sides and the nature of the subject-matter as well as reasons mentioned in the application, I do not find any impediment to condone the delay on certain terms and conditions. It would sub-serve the purpose in the interest of justice. It is the settled rule of law that while dealing with the application for condonation of delay, liberal and pragmatic approach is essential to be adopted by avoiding pedantic

approach. Hence, application deserves to be allowed.

5. In sequel, application is allowed in terms of prayer clause "B". The delay caused to present the appeal against the impugned Judgment and Award stands condoned subject to condition that applicants-appellants 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-appellant shall furnish undertakings 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 appeal on merit. Registry to take requisite steps for further process.

7. The civil application is allowed in aforesaid terms and stand disposed of.

8. On registration of appeal, issue notice to respondents. Learned AGP waives service of notice on behalf of respondents No. 1 and 2 and Mr. Patil, waives service of notice on behalf of respondent No. 3.

9. Call for record and proceedings.

10. List the matter for admission on 24-07-2018.

Sd/-

[K. K. SONAWANE]
JUDGE

MTK.