

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

CIVIL APPLICATION NO. 13234 OF 2015
IN
FIRST APPEAL [STAMP] NO. 28503 OF 2015

The Executive Engineer,
Irrigation Department, Latur
and another

.. Applicants

versus

Sow. Banyabai w/o Tipanappa Biradar,
died, through legal representatives :-
Shantabai Ramanand Birajdar

.. Respondent

Mrs. Bharati B. Gunjal, Advocate for applicants

CORAM : SUNIL P. DESHMUKH, J.
DATE : 9th April, 2018

ORDER :

1. Heard learned counsel for the applicant.
2. This is an application for condonation of delay of 2181 days in preferring appeal against judgment and award passed on 10-07-2009 by Civil Judge, Senior Division, Nilanga in land acquisition reference no. 32 of 2004.
3. Learned counsel for applicant submits that for quite a long time, decision rendered by reference court had not been made known to concerned authorities. After becoming aware of the

decision, the authorities had applied for certified copies and on receipt of the same, legal opinion had been sought for from the advocate on panel. Legal guidance in this respect had been sought and quite a long time had been consumed in the process. Further, it also took quite a long time to arrange for funds for court fees. The decision making process had proved to be quite lengthy under the administrative functions. It is further being referred to that the legal department of the corporation is flooded with proposals arising out of decisions in land acquisition references. Officers concerned were getting engaged in other public duties. If delay is not condoned it would put public exchequer under encumbrance. Applicants have good case on merits and a good cause is likely to be lost. It is submitted that delay is neither intentional nor deliberate and had occurred in the circumstances referred to above. No particular benefit is derived by applicant – appellant in the process.

4. There is no resistance worth the name to the aforesaid aspects involved in the matter, on behalf of respondents. Neither any material has been placed on record contradicting aforesaid nor the same is countered. No written resistance has been placed. The approach of the respondents to quite a large extent is an indication of that veracity of the contents of the application are not doubted.

5. In the circumstances, a pedantic approach may have to be eschewed and weighing the matter on the scale decisions of the Supreme Court in the cases of *Collector, Land Acquisition, Anantnag vs. Mst. Katiji*, reported in 1987 SC 1353, and *Dhiraj Singh (dead) through legal representatives and others vs. State of Haryana and others*, reported in (2014) 14 SCC 127, it would be expedient to allow the application.

6. Civil application accordingly is allowed. Delay condoned.

7. Application is disposed of.

SUNIL P. DESHMUKH,
JUDGE

pnd