IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

904 CIVIL APPLICATION NO. 1054 OF 2012
IN FAST/33067/2011

YAKUB AHEMAD SIDHIKI & ORS
VERSUS
THE STATE OF MAHARASHTRA AND ORS
...
Advocate for Applicants : Mr.Sontakke Gajanan K. & Mr. P. G. Sontakke
AGP for Respondent Nos. 1 & 3 : Mr. R.B.Bagul
Advocate for Respondent No. 2 : Mr.Arora Shyam C.
...

WITH
CA/1056/2012 IN FAST/33118/2011
WITH CA/1057/2012 IN FAST/33114/2011
WITH CA/1058/2012 IN FAST/33105/2011

CORAM : SUNIL K.KOTWAL, J.

DATE : OCTOBER 6, 2018

O R D E R :

Heard learned counsel for applicants and learned counsel for respondent Nos. 1 and 3.

2. Learned counsel for respondent Nos. 1 and 3 objected these applications on the ground that poverty and illiteracy cannot be a ground for condonation of delay.

3. Learned counsel for respondent no. 2 has also opposed these applications for the same reason.

4. In the present case, applicants who are the original claimants in Land Reference cases have sought condonation of delay of 233 days on the ground that on account of poverty and financial crisis the appeals could not preferred within time limit. There is no intentional delay.

5. Learned counsel for applicants is also ready to waive interest and statutory benefits for the delayed period.

6. From the nature of the litigation, it emerges that the appeals along with these applications are filed for enhancement of the compensation. Obviously, from the residential addresses of the claimants and the area acquired, it appears that, applicants belong to small village and

they are rustic persons. In addition to this, the difficulty of financial crises is also reasonable, however, at the same time, it cannot be ignored that these applications for condonation of delay are filed on 20.12.2011. The orders for circulation were passed on 12.2.2013. However, as the learned counsel for applicants did not deposit Bhatta, the process could not be issued till 23.10.2015. Thereafter notices were issued and now the matters have come before this Court for hearing. Thus, obviously there is negligence on the part of learned counsel for applicants for taking necessary steps in the matter. However, on that count alone, delay condonation applications cannot be rejected. This aspect will be considered subsequently.

7. Taking into consideration, the grounds assigned for condonation of delay and the interest of the claimants as well as respondents, it is desirable to award fair opportunity to the applicants.

8. Therefore, the delay of 233 days in filing the appeals is condoned subject to condition that applicants shall file written undertakings in the First Appeals that they would waive interest and statutory benefits for the delayed period as well as for the period from the date of filing of these applications till the date of passing of this order.

8. If such undertakings are not filed within eight weeks from today, the applications for condonation of delay shall stand dismissed without reference to this Court.

9. Civil applications are disposed of in above said terms.

[**SUNIL K.KOTWAL, J.**]

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