

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

932 CIVIL APPLICATION NO. 16835 OF 2015
IN FAST/34793/2015

THE EXECUTIVE ENGINEER, URDHVA PRAVARA CANAL
DIVISIONGHULEWADI AND ANR

VERSUS

MADHUKAR RAMCHANDRA PICHAD AND ANR

Advocate for Applicants : Mr. U.K. Patil

Adv. For Respondents No.1 and 2 : Mr. Dnyaneshwar A. Bide

AGP for Respondent No. 3: Ms. S.S. Raut

CORAM : K.K. SONAWANE, J.

DATED : 19th JUNE, 2018.

Order :-

1. Heard learned counsel for the applicant - Acquiring Body as well as learned counsel for respondents No.1 and 2 - original claimants and learned AGP for respondent No. 3.

2. The applicant - Acquiring Body moved the present application for condonation of delay in filing the first appeal against impugned Judgment and Award passed by the learned Reference Court in Land Acquisition Reference filed under section 18 of the Land Acquisition Act, 1894. According to learned counsel for the applicant-Acquiring Body, impugned Judgment and Award passed by the Reference Court is erroneous, illegal and is not as per the provisions of Land Acquisition Act, 1894. 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 counsel for respondents-original claimants submits that there is inordinate delay, which has not been explained satisfactorily, therefore, the same cannot be condoned and prayed for rejection of application.

4. The learned AGP for respondent No. 3 raised objection and submits that suitable orders may be passed.

5. I have given anxious consideration to the submission of both learned counsel. Considering the nature of the subject-matter and reasons mentioned in the applications, I do not find any impediment to allow the application for condonation of delay. The public interest is involved into the matter. It is settled law that liberal and pragmatic approach is essential to be adopted by avoiding pedantic approach while dealing with the application for consideration of delay. Therefore, it is imperative 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 respondents. In contrast, it would sub-serve the purpose of substantial justice. Hence, the application for condonation of delay deserves to be allowed.

6. In sequel, the application stand allowed in terms of prayer clause (B). Delay caused in filing appeals against the impugned Judgment and Award is hereby condoned. Registry to take requisite steps for registration of appeal. Civil application stands disposed of accordingly.

7. On registration of appeal, issue notice to the respondents. Mr. Bide, learned counsel waives service of notice for respondents-original claimants and learned AGP waives service for respondent No. 3.

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

9. After receipt of record and proceedings, list the appeal for admission in due course.

[K. K. SONAWANE]
JUDGE