

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

CIVIL APPLICATION NO. 3352 OF 2018 IN FAST/41299/2017

THE EX. ENGINEER, MINOR IRRIGATION DIVISION OSMANABADTHR
GMIDC AURANGABAD

VERSUS

PRABHAKAR KASHINATH KAMATHE AND OTHERS

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Advocate for Applicant : Mr. Sudhir G. Bhalerao.

Advocate for Respondents-original claimants : Mr. S. A. Wakure.

AGP for Respondents-State : Mr. A. M. Phule.

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WITH CA/3354/2018 IN FAST/41295/2017

WITH CA/3356/2018 IN FAST/41302/2017

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CORAM : K.K. SONAWANE, J.

DATED : 6th JUNE, 2018.

Order :-

Heard learned counsel for applicant- Acquiring Body and learned counsel for respondent (original claimant) as well as learned AGP for respondent- State.

2. Perused the applications and relevant documents placed on record.
3. The applicant-Acquiring Body moved present applications for condonation of delay caused in filing the first appeals against impugned Judgment and Award passed by the learned Reference Court in Land Acquisition References filed under section 18 of the Land Acquisition Act, 1894. According to learned counsel for the applicant, impugned Judgment and Award passed by the Reference Court is erroneous, illegal and is not as per the provisions of Land Acquisition Act, 1894. The applicant is Body corporate having its independent entity. After procuring the funds for court fees appeals came to be filed, however, there is delay in filing the appeals. According to learned counsel for applicant, delay so caused is not intentional or deliberate, but it was caused due to compliance of official process. Therefore, he prayed to condone the delay.
4. The learned AGP for respondent- State submits for suitable order in the interest of justice.

5. The learned counsel for respondent-original claimant raised objection that the satisfactory reasons for such inordinate and huge delay caused for filing first appeal have not been properly explained by the applicant-Acquiring Body. He requested to reject the applications.

6. I have given anxious consideration to the submissions advanced on behalf of both sides. Admittedly, matters pertain to the land acquisition proceedings involving public funds. The applicant- Acquiring Body is the Government Agency looking after the irrigation projects. In view of nature of the subject matter and the reasons mentioned in the application, I find that reasonable opportunity is essential to be granted to applicant-Acquiring Body to ventilate it's grievance in the Appellate Forum for redressal. Therefore, delay caused for filing First Appeals is required to be condoned. Accordingly, applications for condonation of delay stand allowed in terms of prayer clause 'B'. The delay caused in preferring the First Appeals against impugned Judgment and Award is hereby condoned. The civil applications are disposed of in above terms accordingly. Registry to take requisite steps for further process.

7. After registration of appeals, issue notice to respondents.

8. Mr. Wakure, learned counsel waives service of notice for respondent-original claimant and learned AGP waives service of notice for respondent- State of Maharashtra.

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

10. List the matters for admission in due course.

[K. K. SONAWANE]
JUDGE

rrd.