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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.2255 OF 2018
IN
FIRST APPEAL STAMP NO. 3697 OF 2018

Rohit Sopanrao Suryawanshi

APPLICANT

VERSUS

The State of Maharashtra and Others

RESPONDENTS

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Mr. S. S. Wagh, Advocate for the applicant

Mr. P. N. Kutti, AGP for respondent - State

Mr. Ruchir Wani h/f Mr. A. S. Bajaj, Advocate for respondent No.3

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[CORAM : SUNIL P. DESHMUKH AND
SMT. VIBHA KANKANWADI, JJ.]

DATE : 8th NOVEMBER, 2019

ORDER :

1. This is an application for condonation of delay of 592 days in preferring first appeal under section 54 of the Land Acquisition Act, against judgment and award of land acquisition reference court dated 22nd March, 2016.

2. Applicant refers to that he had been in grave financial crises along with hospitalization of father and ailing wife, had made things difficult for him to make an expeditious approach to this court. Applicant alongside contends that he had been given

to understand that provisions of the Limitation Act would not be applicable to the proceedings under the Land Acquisition Act and since no appeal had been filed, within time prescribed under that act, remedial doors are foreclosed on him. However, subsequently, while notice of delay condonation application in appeal preferred by acquiring body had been received, he has immediately filed first appeal along with present civil application seeking condonation of delay.

3. In reply to aforesaid, acquiring body has referred to that it had preferred first appeal bearing No. 5094 of 2017 and present applicant had not preferred appeal immediately after notice of the same. It is being referred to that reasons given under the application are vague and there is no material produced in support of the same. It is contended that the reasons about illness in family if were to be seen, they are not serious and would not be of such nature as would have baulked the applicant from making an approach without delay. The reply also refers to that *inter se* miscommunications between advocate and the applicant is a run away submission.

4. While submissions are as aforesaid, it appears that during pendency of appeal filed by the acquiring body, appeal along with application for condonation of delay has been moved by the

applicant and an attempt has been made to have a remedial measure as would be available while applicant claims to have been aggrieved by the award passed by reference court and to assert claimed rights. The reply by respondents does not seriously dispute ailments in the family, albeit, degree of seriousness is being debated and also having regard to that it is not seriously disputed that the applicant had moved this court upon notice of appeal filed by acquiring body. In view of guidelines by the Supreme Court in its decisions in "*Collector, Land Acquisition, Anantnag V/s. Ms. Katiji and others*" reported in *AIR 1987 SC 1353*, "*Esha Bhattacharjee V/s. Managing Committee of Raghunathpur Nafar Academy and others*" reported in *(2013) 12 Supreme Court Cases 649*, and "*Dhiraj Singh (Dead) Through Legal Representatives and Others V/s State of Haryana and others*" reported in *(2014) 14 SCC 127*, we consider it expedient to condone the delay, subject, however, to payment of costs of Rs.15,000/- in order to make good the inconvenience caused to the other side in the process.

5. As such, application is allowed in terms of prayer clause "A", subject to payment of costs of Rs.15,000/- to be deposited within a period of four weeks from today in this court. The amount of costs, if deposited, be allowed to be withdrawn by the respondents, to be shared equally.

6. It would also be referred to that the applicant would not be able to claim benefit of interest accruals under the award, in case applicant succeeds in first appeal, for the delayed period.

7. Civil application stands disposed of.

[SMT. VIBHA KANKANWADI]
JUDGE

[SUNIL P. DESHMUKH]
JUDGE